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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Working Group on Enforced or Involuntary Disappearances

Addendum

Follow-up report to the recommendations made by the Working Group[*]

Missions to Congo and Pakistan

Note by the Secretariat

This document contains information supplied by Governments, civil society and other stakeholders, relating to the follow-up measures to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its country visits to Congo in 2011 (A/HRC/19/58/Add.3) and Pakistan in 2012 (A/HRC/22/45/add.2).

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I. Introduction

1. This document contains information supplied by Governments, civil society and other stakeholders, relating to the follow-up measures to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its country visits. In paragraph 7 a) of its Resolution 7/12, the Human Rights Council requested Governments that have accepted visits "to give all necessary attention to the Working Group's recommendations" and invited them to inform the Working Group of "any action they take on those recommendations". The Human Rights council reiterates this request in paragraph 16 a) of its Resolution 21/4. Resolution 27/1 renews the mandate of the Working Group in conformity with the terms set forth in Human Rights Council resolution 7/12.

2. The Working Group decided in 2010 to adopt the present format to its follow-up reports with the aim of rendering it reader-friendly and of facilitating the identification of concrete steps taken in response to the specific recommendations and to reflect the opinions of the different actors involved in the process. For this reason, follow-up tables have been created. The tables contain the recommendations of the Working Group, a brief description of the situation when the country visit was undertaken, an overview of the steps taken on the basis of the information gathered by the Working Group both from governmental and non-governmental sources, and the observations of the Working Group on the level of implementation of the recommendations.

3. The Working Group continues to offer its assistance to the Governments that have received a visit to comply with the recommendations made and stands ready to assist them in their efforts to prevent and combat the heinous crime of enforced disappearance.

II. Congo

Suivi des recommandations du Groupe de travail sur les disparitions forcées ou involontaires faites dans le rapport suite à sa visite au Congo du 24 septembre au 3 octobre 2011 (A/HRC/19/58/Add.3)

4. Le 15 janvier 2016 puis le 30 mars 2016, le Groupe de travail sur les disparitions forcées ou involontaires a demandé au gouvernement congolais de fournir des informations sur les mesures qui ont été adoptées pour mettre en œuvre les recommandations formulées par le Groupe de travail dans le rapport A/HRC/19/58/Add.3, à la suite de sa visite au Congo du 24 septembre au 3 octobre 2011. Aucune réponse du gouvernement n'a été reçue par le Groupe de travail suite à cette demande. Le 20 juin 2016, le Groupe de travail a adressé au gouvernement congolais les informations contenues dans le tableau ci-dessous, en l'invitant à formuler des observations et / ou à fournir des informations. Aucune information n'a été présentée par le gouvernement. Le Groupe de travail regrette le manque de coopération du gouvernement congolais tout au long de ce processus de suivi.

5. Suite à ses observations, le Groupe de travail note que nombre des recommandations formulées à l'attention des autorités congolaises restent d'actualité et exigent une mise en œuvre effective.

6. Bien que le Groupe de travail se réjouisse de la révision en cours du Code pénal en collaboration avec l'Union Européenne, il rappelle la nécessité d'intégrer une incrimination autonome de la disparition forcée conformément à la définition contenue dans la Déclaration et dans la Convention pour la protection de toutes les personnes contre les disparitions forcées.

7. Le Groupe de travail appelle à nouveau le gouvernement congolais à ratifier sans réserves la Convention des Nations Unies pour la protection de toutes les personnes contre les disparitions forcées ou involontaires, qu'il a signée en 2007.

8. Le Groupe de travail salue également l'initiative du gouvernement congolais ayant permis l'abolition de la peine de mort par l'intermédiaire de l'article 8 de la nouvelle Constitution adoptée suite au référendum du 25 octobre 2015 et promulguée le 6 novembre 2015.

9. Le Groupe de travail note que l'impunité semble perdurer au Congo dans la mesure où aucune disposition ne semble avoir été mise en place pour lutter contre ce phénomène et ouvrir des enquêtes lorsque des disparitions forcées surviennent. Le Groupe de travail réitère sa recommandation sur la nécessité de prendre toutes les mesures utiles afin de prévenir et lutter contre l'impunité à l'égard des responsables d'actes de disparition forcée sans attendre que les proches des disparus prennent l'initiative de déposer une plainte formelle ou d'engager une procédure d'enquête conformément à l'article 13§1 de la Déclaration.

10. Le Groupe de travail se félicite de la libération, en septembre 2012, des trois ressortissants de la République démocratique du Congo qui étaient détenus dans les locaux de la Direction Centrale des renseignements militaires. Néanmoins, le Groupe de travail reste préoccupé par les allégations reçues concernant des cas d'arrestation et de détention arbitraire et de dépassement de délais de garde à vue. Il rappelle au gouvernement que toute personne privée de liberté doit être gardée dans des lieux de détention officiellement reconnus et être déférée à une autorité judiciaire peu après son arrestation. Le Groupe de travail recommande à nouveau au gouvernement congolais d'interdire la détention au secret ou la détention de personnes dans des lieux de détention non officiels et non réguliers conformément à l'article 10 de la Déclaration.

11. Le Groupe de travail constate que les dépassements de délais de garde à vue persistent et sont essentiellement imputables au manque de moyens adéquats mis à la disposition de la police et de la justice. Il s’inquiète également du fait que les visites sur les lieux de détention par le Procureur de la République ne soient pas encore menées de façon systématique. Le Groupe de travail invite le gouvernement congolais à mettre à la disposition de la police et de la justice les moyens nécessaires afin de permettre une meilleure prévention des disparitions forcées.

12. Le Groupe de travail regrette qu’aucune enquête effective n’ait encore été menée par les autorités judicaires congolaise pour faire la lumière sur le sort des disparus entre 1998 et 1999 et sur ceux recencés depuis les années 2000 dans les départements du Pool, du Niari, de la Lékoumou et de la Bouenza. Il note également qu’aucun organe compétent et indépendant n’a été mis en place pour clarifier leur sort et déplore l’absence de réponse de la part du gouvernement et le manque de coopération dont il a fait preuve avec les Rapporteurs spéciaux des Nations Unies. Le Groupe de travail réitère sa recommandation sur la nécessité pour les autorités congolaises de mener des enquêtes effectives au moyen d’organes compétents et indépendants ayant les capacités d’enquêter sur le sort des personnes victimes de disparitions forcées sur le territoire congolais et de coopérer avec les différents Rapporteurs spéciaux des Nations Unies ainsi qu’avec le Groupe de travail.

13. Le Groupe de travail regrette que le procès tenu à Brazzaville durant l’été 2005 relatif à l’affaire des disparus du Beach de Brazzaville ne respectait nullement les normes du procès équitable et que depuis ce procès aucune enquête ne semble avoir été mise en place pour élucider le sort réservé aux vingt-trois personnes disparues, et ce, en dépit des instructions qui auraient été données par le Procureur de la République du Tribunal de Grande Instance de Brazzaville. Le Groupe de travail recommande à nouveau au gouvernement congolais de poursuivre ces enquêtes en vue d’élucider le sort réservé aux vingt-trois personnes victimes de disparitions forcées dans le contexte des opérations de rapatriement menées à partir d’avril 1999.

14. Le Groupe de travail reste préoccupé par les allégations reçues concernant des cas d’intimidation de la part des autorités congolaises envers les proches des disparus ayant notamment pour conséquence d’entraver les procédures de plainte auprès des instances nationales et internationales. Le Groupe de travail invite à nouveau le gouvernement congolais à mettre en place un programme effectif de protection des victimes et des témoins, permettant à ces derniers de porter plainte ou de témoigner sans crainte de représailles.

15. Le Groupe de travail rappelle au gouvernement congolais la nécessité d’élaborer un programme général et exhaustif d’indemnisation ou de réparation pour les victimes des conflits. Le Groupe de travail observe que, à l’exception d’une indemnisation accordée aux familles des parties civiles au procès de 2005, et en dépit des recommandations formulées suite à sa visite en 2011, le gouvernement congolais n’a pas mis en place de mesures d’assistance psychologique ou sociale aux proches des disparus. Le Groupe de travail invite le gouvernement à accorder aux proches des disparus une réparation de leurs préjudices qui, outre l’octroi d’une indemnisation, devrait être complétée par des mesures d’assistance psychologique et sociale.

16. Le Groupe de travail note qu’aucun véritable programme visant le rétablissement de la vérité et de la réconciliation n’a été mis en place. Le Groupe de travail rappelle qu’une cessation des pratiques de violation des droits individuels et collectifs est le préalable à tout processus de vérité et réconciliation. Il invite également le gouvernement congolais à concrétiser les initiatives qu’il avait évoquées lors de la visite du Groupe de travail en 2011 (dialogue national et réforme de la justice) concernant la mise en place d’un programme visant à rétablir la vérité et la réconciliation en prévoyant la pleine participation des victimes.

17. Par ailleurs, le Groupe de travail recommande que le gouvernement congolais, notamment au regard de l'instabilité et des tensions qui perdurent dans le pays, envisage l'établissement d'une Commission ayant pour objectif la recherche de la paix et de la réconciliation, qui pourrait prendre pour base institutionnelle le Comité de suivi de la Convention pour la paix et la reconstruction du Congo.

18. Le Groupe observe qu'en dépit de ses recommandations d'organiser une cérémonie en hommage aux disparus du Beach de Brazzaville et de recevoir les familles de ces disparus, le Gouvernement semble toujours refuser une telle reconnaissance et l'intervention d'une commémoration en interdisant son organisation par les acteurs de la société civile. Le Groupe de travail invite le gouvernement congolais à reconnaitre les disparus du Beach de Brazzaville et commémorer ou autoriser l'organisation d'une commémoration par les acteurs de la société civile.

19. Le Groupe de travail note avec satisfaction que des programmes de formation à l'intention de la police et de l'armée intègrent des éléments de droit international humanitaire et invite le gouvernement à poursuivre ses efforts pour que les programmes de formation à destination des personnels susmentionnés, y compris le personnel de justice, intègrent le droit international des droits de l'homme et en particulier les éléments relatifs aux disparitions forcées.

20. Le Groupe de travail réitère sa recommandation invitant la communauté internationale à apporter au gouvernement congolais l'assistance nécessaire et adéquate en matière de renforcement des capacités techniques pour la promotion et la protection des droits de l'homme.

21. Le Groupe de travail réitère sa disposition à apporter son soutien et son expertise au gouvernement congolais en vue d'élucider le sort de toutes les victimes de la disparition forcée dans le pays et à mettre en place les mesures permettant de garantir la non récurrence de tels actes.

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	Situation pendant la visite (A/HRC/19/58/Add.3)	Observations: mesures prises récemment situation Actuelle	Etat d'avancement de la mise en œuvre et observations (GT)
100 (a) Continuer à rechercher la vérité sur le sort réservé à toutes les personnes qui auraient été victimes de disparitions forcées sur le territoire du Congo	34. Le Groupe de travail constate que les seules enquêtes et poursuites menées contre de potentiels auteurs de disparitions l'ont été dans le contexte du procès de 2005 dit « des disparus du Beach de Brazzaville ». Or l'ensemble des accusés lors de ce procès ont été reconnus non coupables des faits qui leur étaient reprochés. Par ailleurs, le Groupe de travail est conscient que le phénomène des disparitions forcées au Congo ne se limite pas aux cas des disparus du Beach. Le Groupe de travail a notamment reçu des allégations selon lesquelles des disparitions forcées auraient été perpétrées non seulement à la même période, dans les autres « couloirs humanitaires » aménagés pour le retour des réfugiés, mais également à d'autres périodes et dans d'autres lieux. Il semble en particulier qu'aucune enquête n'ait jamais été diligentée en lien avec les disparitions forcées qui auraient eu lieu entre 1998 et 1999 dans les départements du Pool, du Niari, de la Lékoumou et de la Bouenza. 63. Le droit individuel de connaître la vérité sur le sort réservé à une personne victime de disparition forcée est un droit absolu. Ce droit comporte des obligations procédurales à la charge de l'Etat, et notamment	FIDH/OCDH : Concernant « l'affaire des disparus du Beach », aucune enquête effective n'aurait été menée après « qu'instruction ait été donnée au Procureur de la République du Tribunal de Grande Instance de Brazzaville d'ouvrir une enquête au sujet de vingt-trois cas de disparitions forcées qui n'ont pas été pris en compte lors du procès de 2005 » comme stipulé par le Groupe de travail. Aucune nouvelle procédure judiciaire n'a été ouverte au Congo depuis le procès d'août 2005 portant sur ces disparitions forcées et au cours duquel la Cour criminelle de Brazzaville avait acquitté les 16 accusés poursuivis pour crimes de génocide, crimes de guerre, crimes contre l'humanité : Norbert Dabira, Blaise Adoua, Jean-François Ndénguet, Guy-Blaise Garcia, Marcel Ntsourou, Jean Aive Allakoua, Jean-Pierre Essouaba, Emmanuel Avoukou, Edouard Ndinga-Oba, Gabriel Ondongo, Rogobert Mobed, Vincent Vital Bakana, Yvon-Dieudonné Sita Bantsiri, Guy Edourad Taty. Cependant, l'instruction judiciaire ouverte en France sur la base de la plainte déposée par la FIDH, l'OCDH et la LDH aux côtés de 80 victimes rescapées ou membres de leurs familles en decembre 2001 demeure ouverte auprès du Pôle judiciaire spécialisé sur les crimes contre l'humanité, crimes et délits de guerre du TGI de Paris. Jusqu'alors, les autorités congolaises ont systématiquement fait obstacle à la justice	Le Groupe de travail constate qu'aucune enquête effective n'a encore été menée par les autorités judiciaires congolaises pour faire la lumière sur le sort des disparus entre 1998 et 1999 dans les départements du Pool, du Niari, de la Lékoumou et de la Bouenza, ni sur le sort des disparus recensés depuis les années 2000. Le Groupe de travail note également qu'aucun organe compétent n'a été mis en place pour clarifier le sort des personnes disparues, en particulier à partir des années 2000. Comme le rappelait le Groupe de travail lors de sa visite au Congo (A/HRC/19/58/Add.3), les familles des personnes disparues ont le droit de connaître la vérité. Pour ce faire, l'Etat a l'obligation d'enquêter, notamment par l'entremise d'un organe compétent et indépendant, qui ne

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	l'accès à un organe compétent et indépendant, ainsi qu'une obligation d'enquêter jusqu'à ce que la lumière ait été faite sur le sort réservé à la personne disparue. 64. Le droit à la vérité doit être reconnu comme un droit autonome, distinct en particulier du droit à la justice. Le Groupe de travail souligne en particulier que le droit à la vérité peut être réalisé par d'autres moyens que celui d'un processus judiciaire. Dans certaines situations, la réalisation du droit à la vérité peut affecter le droit à la justice, lorsque l'action pénale est considérée comment allant à l'encontre du but de réconciliation poursuivi par l'Etat et les composantes de la société congolaise. Le Groupe de travail rappelle toutefois que le pardon ne devrait être accordé qu'après un processus de paix authentique et des négociations de bonne foi avec les victimes, produisant pour résultat des excuses et l'expression de regrets de la part de l'État ou des auteurs des faits et des garanties pour prévenir les disparitions dans l'avenir.	française et la manifestation de la vérité. Ainsi en 2007 lorsque que la Cour de cassation avait cassé la décision de 2004 de la Cour d'appel de Paris d'annuler l'intégralité de la procédure ouverte en France pour "crimes contre l'humanité", permettant finalement à l'instruction de reprendre, les autorités de Brazzaville avaient qualifié ce retournement de situation de "grave affront" à sa souveraineté, susceptible de nuire à la coopération bilatérale. Le Gouvernement congolais n'a également pris aucune mesure concrète depuis la visite du Groupe de travail pour : - mener des investigations supplémentaires sur l'affaire dite « des disparus du Beach de Brazzaville », - mener des investigations supplémentaires sur les autres « couloirs humanitaires » aménagés pour le retour des réfugiés, à la même période mais également à d'autres périodes et dans d'autres lieux notamment entre 1998 et 1999 dans les départements du Pool, du Niari, de la Lékoumou et de la Bouenza. - mener des investigations sur les cas de disparitions forcées signalées depuis les années 2000; - mis en place un organe compétent et indépendant en mesure de mener de telles enquêtes garantissant le droit à la vérité sur le sort réservé à la personne disparue.	semble pas avoir été créé par le gouvernement depuis les recommandations du Groupe de travail. Le Groupe de travail déplore l'absence de réponses de la part du gouvernement et le manque de coopération dont il fait preuve avec les différents Rapporteurs spéciaux des Nations unies ainsi qu'avec le Groupe de travail. Selon les informations recueillies, le gouvernement de la République du Congo n'a pas continué à rechercher la vérité sur le sort réservé à toutes les personnes qui auraient été victimes de disparitions forcées sur le territoire congolais.
100 (b) Ratifier au plus vite la Convention des Nations Unies pour la protection de toutes les	23. Le Groupe de travail se félicite que le Congo ait signé la Convention internationale pour la protection de toutes les personnes	FIDH/OCDH : La République du Congo n'a toujours pas ratifié la Convention internationale contre	Bien que la République du Congo ait signé la Convention internationale contre

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personnes contre les disparitions forcées ou involontaires	contre les disparitions forcées de 2006. Il l'encourage à accélérer le processus de ratification de cette Convention et à accepter la compétence du Comité au regard des articles 31 et 32 de la Convention.	les disparitions forcées et accepté la compétence du Comité.	les disparitions forcées en 2007, le Groupe de travail constate avec regret qu'aujourd'hui le Congo n'a toujours pas ratifié ladite Convention.
100 (c) Intégrer dans le Code pénal une incrimination autonome de disparition forcée	31. Le Code pénal congolais ne contient pas à l'heure actuelle d'incrimination autonome de la disparition forcée, indépendamment de sa qualification de crime contre l'humanité. L'article 4 § 1 de la Déclaration stipule : « Tout acte conduisant à une disparition forcée est un crime passible de peines appropriées, qui tiennent compte de son extrême gravité au regard de la loi pénale. » 32. […] Le Groupe de travail se réjouit du fait qu'une révision du Code pénal est actuellement à l'étude, en coopération notamment avec l'Union européenne. Il est important, à cette occasion, d'intégrer le crime de disparition forcée comme crime autonome, sans même attendre la ratification de la Convention.	FIDH/OCDH : Il n'existe pas en droit congolais une incrimination autonome de la disparition forcée. Depuis fin 2015, le Gouvernement congolais est en phase de rédaction et de révision de 7 Codes parmi lesquels, le Code pénal avec le soutien de l'Union européenne. Le gouvernement congolais devrait spécifier si l'incrimination autonome du crime de disparition forcée est contenue dans le projet de Code pénale, information à ce jour non confirmée.	Le Groupe de travail se réjouit du fait que la rédaction et la révision du Code pénal soit actuellement en cours, en collaboration avec l'Union européenne. Le Groupe de travail n'a toutefois pas obtenu d'informations explicites au sujet de l'inclusion d'une incrimination autonome du crime de disparition forcée, conformément à la définition contenue au sein de la Déclaration et de la Convention.
100 (d) En intégrant le crime de disparition forcée à la législation nationale, s'inspirer des recommandations formulées par le	30. La loi 8-98 du 31 octobre 1998 a intégré dans le Code pénal les définitions du génocide, des crimes contre l'humanité et des crimes de guerre, telles qu'elles résultent du Statut de Rome	FIDH/OCDH : Le projet de nouvelle Constitution du 25 octobre 2015 prévoit l'abolition de la peine de mort malgré le caractère controversé de son processus d'adoption.	

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Groupe de travail dans son étude relative aux « meilleures pratiques concernant les disparitions forcées faisant l'objet de dispositions dans la législation des Etats » (A/HRC/16/48/Add.3)	portant création de la Cour pénale internationale. Parmi les actes qualifiables de crimes contre l'humanité aux termes de cette définition se trouve la disparition forcée, lorsque celle-ci est commise dans le cadre d'une attaque généralisée ou systématique contre la population civile. Le Groupe de travail se félicite de cette intégration dans le Code pénal de la disparition forcée comme crime contre l'humanité. Le Groupe de travail regrette toutefois que la peine encourue pour ce crime soit la peine de mort. Les autorités ont assuré au Groupe de travail que cette peine était tombée en désuétude et qu'un moratoire de fait s'était installé au Congo. Dans ces conditions, une abolition de jure serait souhaitable. 33. Le Groupe de travail attire par ailleurs l'attention du Congo sur les recommandations formulées dans son étude relative aux « meilleures pratiques concernant les disparitions forcées faisant l'objet de dispositions dans la législation des Etats » (A/HRC/16/48/Add.3).		Le Groupe de travail salue l'initiative du gouvernement congolais qui a décidé d'abolir la peine de mort dans la nouvelle Constitution de novembre 2015.
100 (e) Prendre toutes les mesures nécessaires pour lutter contre l'impunité des	35. L'article 13 § 1 de la Déclaration stipule que « Lorsqu'il existe des raisons de croire qu'une personne a été	FIDH/OCDH : De façon générale, l'impunité est la règle en matière de violation des droits humains au Congo. L'OCDH, organisation membre	Le Groupe de travail constate avec regret que l'impunité semble perdurer au Congo.

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responsables de ce crime, sans attendre que les proches des disparus prennent l'initiative de déposer une plainte formelle ou d'engager une procédure d'enquête	victime d'une disparition forcée, l'Etat défère sans délai l'affaire à ladite autorité pour qu'elle ouvre une enquête, même si aucune plainte n'a été officiellement déposée. » En vertu de la Déclaration, les autorités doivent donc prendre toutes les mesures pour rechercher et punir les responsables et ne sauraient laisser aux proches des disparus l'initiative de déposer une plainte formelle ou d'engager une procédure d'enquête.	de la FIDH en République du Congo, a été saisie d'un cas de disparition forcée en juillet 2014. L'OCDH a saisi les autorités policières pour ce cas. Aucune suite n'a été donnée. Une rencontre avec les autorités judiciaires a eu lieu avec l'OCDH et les parents du disparu. Ces derniers n'ont pas donné suite à la procédure en raison de mesures d'intimidation à leur égard. En l'absence de leur consentement, l'OCDH et la FIDH n'ont pas été en mesure de saisir le Groupe de travail sur ce cas. Ce cas démontre la non effectivité de la saisine des autorités policières et judiciaires notamment pour les cas de disparitions forcées mais également l'absence de pro-activité des autorités administratives et politiques pour adopter des mesures adéquates pour faire cesser les disparitions forcées en République du Congo.	puisqu'aucune mesure ne semble avoir été mise en place pour lutter contre ce phénomène, ni pour ouvrir des enquêtes lorsque des disparitions forcées surviennent. Le Groupe de travail a reçu des informations selon lesquelles les proches de disparus seraient victimes d'intimidation de la part des autorités, ce qui a pour conséquences d'entraver les procédures de plaintes auprès des instances internationales.
100 (f) Mettre en place un programme effectif de protection des victimes et des témoins, offrant toutes les garanties de sécurité aux personnes qui souhaiteraient porter plainte ou témoigner	36. En vue toutefois de permettre aux victimes et aux témoins d'apporter effectivement leur concours à la justice, un programme effectif de protection devrait être mis en place, offrant toutes les garanties de sécurités aux personnes qui souhaiteraient porter plainte ou témoigner.	FIDH/OCDH: Aucun programme de protection des victimes et des témoins n'a été mis en place jusqu'à ce jour renforçant les craintes légitimes des conséquences à subir en cas de plainte ou de témoignage d'une disparition forcée.	Le Groupe de travail constate avec regret que le gouvernement congolais n'a toujours pas mis en place de programme de protection des victimes et témoins, ni pris aucune mesure dans ce sens permettant à ces derniers de porter

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations: mesures prises récemment/situation* *Actuelle*	*État d'avancement de la mise en œuvre et observations (GT)*
			plainte ou de témoigner sans crainte de représailles.
100 (g) Interdire la détention au secret ou la détention de personnes dans des lieux non officiels de détention et poursuivre et punir tout comportement de la part d'un fonctionnaire ou d'une personne agissant avec le consentement, l'acquiescement ou sous le contrôle de l'État et contrevenant à cette interdiction;	45. Le Groupe de travail rappelle que l'article 10 § 1 de la Déclaration stipule : « Toute personne privée de liberté doit être gardée dans des lieux de détention officiellement reconnus et être déférée à une autorité judiciaire, conformément à la législation nationale, peu après son arrestation. » 47. Le Groupe de travail recommande au Congo d'interdire la détention au secret ou dans des lieux non officiels de détention, ainsi que de poursuivre et de punir tout comportement de la part d'un fonctionnaire ou d'une personne agissant avec le consentement, l'acquiescement ou sous le contrôle de l'État et contrevenant à cette interdiction. Plus généralement, le Groupe de travail invite le Congo à mettre en œuvre l'article 12 de la Déclaration qui dispose : « Tout État établit dans sa législation nationale des règles qui permettent de désigner les agents du gouvernement habilités à ordonner des privations de liberté, fixent les conditions dans lesquelles de tels ordres peuvent être donnés et prévoient les peines qu'encourent les agents du gouvernement qui refusent sans	FIDH/OCDH: Des individus continuent à être détenus dans des endroits non officiels. En 2015, l'organisations membre de la FIDH, l'OCDH a recensé au moins 10 cas de personnes détenues en secret dans des lieux non officiels de détention. Malgré la saisine des autorités judiciaires, aucune enquête n'a été ouverte contre les présumés auteurs. Les arrestations et détentions arbitraires sont quotidiennes en République du Congo et constituent une pratique courante des forces de sécurité. Dans certains cas, les détentions incommunicado et en secret peuvent durer plusieurs semaines avant que les parents ou des proches des personnes arrêtées puissent finalement être informés, du lieu de détention et du sort des personnes détenues. C'est le cas par exemple de M. Okala Patrick, gardé en secret pendant un mois au camp des actions spécialisées de la police à Brazzaville en 2015. Le code pénal prévoit en ses article/s 341 et 342 des sanctions de travaux forcés en cas de privation abusive de liberté de la part des agents de l'État mais ces dispositions ne se pas appliquées.	Le Groupe de travail a reçu des informations selon lesquelles des individus seraient détenus secrètement dans des lieux de détention non officiels. Il semblerait que certaines personnes soient détenues pendant plusieurs semaines sans pouvoir avertir leurs proches. Le Groupe de travail constate donc que les arrestations et détentions arbitraires dans des lieux de detention non officiels perdurent en République du Congo, contrevenant ainsi à l'article 10 et à l'article 12 de la Déclaration. C'est notamment le cas en ce qui concerne M. Okala Patrick et M. Fred Bauma Winga tous les deux détenus au secret.

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	justification légale de fournir des informations sur une privation de liberté. »		
100 (h) Augmenter les moyens mis à la disposition de la police et de la justice, pour permettre une meilleure prévention des disparitions forcées;	38. […] Des dépassements du délai de garde à vue ont été signalés, qui semblent essentiellement imputables au manque de moyens mis à la disposition de la police et de la justice. 39. […] Le Groupe de travail a pu remarquer en particulier que les moyens informatiques étaient absents ou, lorsqu'ils existaient, rendus difficilement utilisables du fait des coupures d'électricité. 40. […] La pratique des descentes sur les lieux de détention par le Procureur de la République ou ses substituts doit être encouragée, de même que celle consistant à maintenir une ligne téléphonique ouverte, permettant aux citoyens de dénoncer certains cas de détention arbitraire. 41. Le Groupe de travail encourage le Congo à améliorer substantiellement les moyens mis à la disposition de la police et de la justice, en coopération avec les organisations internationales. Le Groupe de travail se félicite à cet égard des programmes d'assistance financés par l'Union européenne.	FIDH/OCDH: Le délai légal de garde à vue (72 heures) n'est pas respecté. Des personnes passent des mois en garde à vue et en détention préventive sans qu'un magistrat compétent ne soit informé ou ne statut sur la légalité de leur détention. Les agents de police et de gendarmerie travaillent dans des conditions d'indigence rendant leur travail difficile et le respect des libertés individuelles moins urgent. Les Procureurs de la République effectuent difficilement des rondes au niveau des commissariats et brigades de gendarmerie pour veiller au respect des délais.	Le Groupe de travail constate également que les dépassements des délais de garde à vue persistent. En outre, l'État ne semble pas avoir augmenté les moyens mis à la disposition de la police et de la justice pour permettre une meilleure prévention des disparitions forcées. Le Groupe de travail s'inquiète également du fait que les visites sur les lieux de détention par le Procureur de la République ne soient pas encore menées de façon systématique et appelle le gouvernement à fournir davantage d'efforts dans ce sens.
100 (i) Prendre les	42. Il recommande par ailleurs	FIDH/OCDH:	Le Groupe de travail

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mesures pour faciliter l'association de la Commission nationale des droits de l'Homme (CNDH) et des ONG de défense des droits de l'Homme au contrôle des lieux de détention dans le respect de l'indépendance de ces dernières ;	aux autorités à continuer d'associer étroitement la Commission nationale des droits de l'Homme (CNDH) et les ONG de défense des droits de l'Homme au contrôle des lieux de détention.	La Commission nationale des droits de l'Homme de la République du Congo a cessé en pratique ses activités depuis 2013 : le mandat de ses membres est caduc, le Président de la Commission réside à l'étranger (France); le vice-président n'est plus en bon terme avec le pouvoir en place ; la Commission n'a toujours pas de siège fonctionnel. Du temps d'activité de la Commission, le domicile privé du Président faisait office de bureau de la Commission. Les ONG de défense des droits de l'homme ne sont pas associées au travail de surveillance des lieux de privation de liberté. Elles n'ont pas l'autorisation et l'accès aux lieux de détention officiels ou privés. Les ONG qui sont d'ailleurs souvent taxées de servir les « intérêts étrangers », ne peuvent s'informer de la détention d'une personne, de son état et des conditions de détentions que par des biais indirects.	constate que la Commission nationale des droits de l'Homme de la République du Congo aurait cessé ses activités Le Groupe de travail a également reçu des informations selon lesquelles les ONG de défense des droits de l'homme ne seraient pas autorisées à accéder aux lieux de détention.
100 (j) Généraliser les programmes de formation des personnels de la police, de la justice et de l'armée dans le domaine des droits de l'Homme et du droit humanitaire, comprenant en particulier des éléments relatifs aux disparitions forcées ;	43. Le Groupe de travail se félicite également que, selon les autorités, les programmes de formation à l'intention de la police et de l'armée intègre des éléments d'enseignements relatifs aux droits de l'Homme et au droit humanitaire. Il encourage le Gouvernement à généraliser ce type de programmes de formation et à prévoir un enseignement spécifique relatif à la disparition forcée.	FIDH/OCDH: Dans les formations dispensées dans les écoles militaires et policières, seul le droit international humanitaire ou droit de la guerre est enseigné. Les droits de l'homme ne font pas officiellement partie des programmes de formation. En 2015, au cours des formations tout de même dispensées directement par l'OCDH à certaines unités de forces de sécurité (police, gendarmerie et l'armée), ces dernières ont demandé à l'OCDH de faire un plaidoyer afin que les droits de	Le Groupe de travail note que les programmes de formation à l'intention de la police et de l'armée intègrent des éléments de droit international humanitaire ou droit de la guerre. Le droit international relatif aux droits de l'homme ne serait toutefois pas enseigné.

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		l'homme soient inscrits dans les programmes de formation.	Le Groupe de travail se réjouit toutefois des informations reçues selon lesquelles certaines unités de police, gendarmerie ou armée auraient mis en avant leur intérêt à ce que l'Observatoire congolais des droits de l'homme (OCDH) demande à ce que le droit international relatif aux droits de l'homme soit enseigné dans les programmes de formation.
100 (k) Élaborer, avec la pleine participation des victimes, un programme intégré et exhaustif de réparation à raison des préjudices causés aux personnes civiles durant les différents conflits qui ont endeuillé le Congo ;	48. Le Groupe de travail note que des programmes de réinsertion et de réadaptation ont été conçus pour les anciens combattants et en particulier pour les anciens membres des milices. Cependant ces programmes ne touchent pas directement les personnes qui ont, parfois, été les victimes de ces combattants aujourd'hui démobilisés. 49. Plusieurs programmes généraux d'assistance jouent également un rôle positif dans la société congolaise, comme ceux visant à l'assistance à la scolarisation des enfants. Toutefois, ces programmes n'ont pas pour objet la réparation du préjudice subi par certaines personnes du fait de violations graves des droits de l'Homme.		Le Groupe de travail constate que depuis sa dernière visite en République du Congo, aucun programme général et exhaustif d'indemnisation ou de réparation n'a été mis en place par l'État.

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	Elles s'adressent à l'ensemble des citoyens congolais sans distinction.		
	50. Le Groupe de travail note par ailleurs avec satisfaction que deux monuments ont été érigés à Brazzaville, en lien avec les trois guerres civiles qui ont déchiré le Congo. L'un de ces deux monuments, en particulier, est un hommage aux victimes des conflits. Si de tels monuments contribuent à la mémoire d'un passé douloureux et sont un signe fort en faveur de la nécessité de retrouver l'unité nationale, elles ne constituent toutefois pas des mesures de reconnaissance suffisantes pour des victimes individuelles, dont l'histoire particulière ne saurait se fondre dans le destin collectif.	FIDH/OCDH : La FIDH et l'OCDH ne voient pas à quels monuments le Groupe de travail fait référence. A leur connaissance, le seul monument existant au Congo au sujet de la guerre civile est celui d'un char de guerre dont le canon est pointé devant le domicile privé du Président Sassou Nguesso sur lequel est écrit « plus jamais ça ». La FIDH et l'OCDH ne considèrent pas que ce « monument » rende particulièrement hommage aux victimes des conflits. Quelques parents des victimes ont été indemnisés après le procès de 2005. Il n'y a jamais existé un programme d'indemnisation général des parents des victimes.	
	51. Plus généralement, le Groupe de travail a constaté qu'en dépit des efforts importants fait par le Congo pour guérir les blessures de la guerre, il n'existe pas à l'heure actuelle de programme intégré et exhaustif de réparation à raison des préjudices causés aux personnes civiles durant les différents conflits.		
	52. Un programme général d'indemnisation pourrait tout d'abord être établi sur la base de la reconnaissance de la responsabilité de l'Etat, en		

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	prenant pour base la jurisprudence de la Chambre criminelle de la Cour d'appel de Brazzaville dans l'affaire des « disparus du Beach ». Dans cette affaire, la Chambre criminelle a reconnu la responsabilité de l'État pour faute à raison d'un dysfonctionnement des institutions de l'État qui ont été incapables d'assurer la sécurité des citoyens. Certes, l'État pourrait envisager d'encourager le lancement d'actions similaires devant les tribunaux nationaux par différentes catégories de victimes, y compris par les familles des disparus dont les cas n'ont pas été pris en compte lors du procès de 2005. 53. Toutefois, il semblerait préférable de concevoir un programme global d'indemnisation, fondé sur l'admission de la responsabilité objective de l'État en la matière. 54. Au-delà des indemnisations, œuvre de la réparation pécuniaire, l'article 19 de la Déclaration prévoit que la réparation doit comprendre « les moyens d'une réadaptation aussi complète que possible ». Le Groupe de travail recommande par conséquent au Congo de mettre en place un programme exhaustif de réparation, couvrant notamment les soins de santé, la		

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	réhabilitation juridique et sociale, la réintégration dans l'emploi, la restitution des biens, le retour au lieu de résidence et d'autres mesures similaires de remise en état et de réparation susceptibles d'éliminer les conséquences de la disparition forcée. Devraient également être adoptées des mesures de satisfaction appropriées, notamment le rétablissement de la dignité et de la réputation des victimes individuelles. Les victimes devraient participer pleinement à la conception et à la mise en œuvre de ce programme de réparation.		
100 (l) Mettre en œuvre, avec la pleine participation des victimes, un programme visant le rétablissement de la vérité et la réconciliation;	55. Tous les interlocuteurs du Groupe de travail se sont réjouis du retour à la paix, qui constitue la condition essentielle de la promotion et de la protection des droits de l'Homme de la population, sans discrimination d'aucune sorte. 56. Le Groupe de travail se félicite de cet état de paix, résultat de la réconciliation entre les différentes parties militaires et civiles, ainsi que de l'esprit d'union nationale qui anime aujourd'hui les acteurs de la vie politique congolaise. Cet esprit s'est manifesté au plus haut rang de l'Etat et s'est concrétisé par plusieurs mesures visant à l'apaisement et au rétablissement	FIDH/OCDH: Aucun programme visant la pleine participation des victimes n'a été mis en place pour le rétablissement de la vérité et de la réconciliation. Ce qui n'a pas permi aux populations affectées de témoigner et de revendiquer leurs droits légitimes. Plus largement, si la FIDH et l'OCDH saluent l'approche du Groupe de travail sur le recensement des initiatives prises par le Gouvernement congolais pour contribuer à la normalisation de la vie politique et l'exercice effectif de la démocratie et des droits garanties par les textes nationaux, régionaux et internationaux ratifiés par la République du Congo, elles s'inquiètent notamment :	Malgré les efforts observés par le Groupe de travail lors de sa visite en 2011, ce dernier constate toutefois qu'aucun véritable programme visant le rétablissement de la vérité et de la réconciliation, avec la pleine participation des victimes, n'existe. Il semble également que les initiatives qui avaient été évoquées lors de cette visite (dialogue national, réforme de la justice) se font attendre.

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	de la concorde. En janvier 1998, peu après la seconde guerre civile de 1997, s'est tenu un Forum national pour la réconciliation, l'unité, la démocratie et la reconstruction du Congo. 57. De même, la fin de la troisième guerre a été suivie par l'organisation, en avril 2001 d'un Dialogue national sans exclusive, réunissant différents acteurs de la société congolaise et ayant abouti à l'adoption d'une Convention pour la paix et la reconstruction du Congo. La promotion de ce texte a été confiée à un Comité de suivi composé de plusieurs commissaires, que le Groupe de travail a pu rencontrer lors de sa visite. Chaque année est organisée une Journée de la Réconciliation nationale à la date anniversaire de l'indépendance du pays, le 10 juin. 58. Plus généralement, le Groupe de travail a pu percevoir chez les différents acteurs de la société congolaise une nette condamnation des excès du passé, attribués à la « bêtise humaine » et la volonté de se souvenir des erreurs en vue de ne pas les répéter à l'avenir. 59. Le Groupe de travail est donc conscient des efforts déployés par le Congo pour rétablir la confiance entre les différentes composantes de la	- du manque d'opérationalisation concrète de ces initiatives par les autorités congolaises (Dialogue national, réformes de la justice, du secteur de la sécurité, etc). - du processus non consensuel d'adoption d'une nouvelle constitution en 2015, ayant pour visée principale la possibilité pour le président en exercice de pouvoir se représenter pour un troisième mandat contrairement aux dispositions de la Constitution en vigueur. Ce processus de révision constitutionnelle a entrainé une forte contestation populaire ayant donné lieu en octobre 2015 à une répression de la part des services de sécurité qui ont provoqué au moins une vingtaine de morts principalement à Brazzaville et à Pointe-Noire, à de nombreux actes d'intimidation et de nombreuses arrestations d'opposants politique dont M. Paulin Makaya, toujours en détention. - de la persistance de pratiques contraires aux droits fondamentaux des individus et des populations. Ainsi, la FIDH et l'OCDH déplorent que la justice soit toujours inaccessible aux victimes de la torture en République du Congo de même que l'existence persistante de cas de tortures, de persécutions politiques et d'attaques contre les libertés syndicales. L'ensemble de ces éléments documentés, laissent apparaître une autre réalité que celle mise en avant par les autorités dans la pratique et l'exercice effectif des droits garantis par les lois nationales et les conventions internationales ratifiées par la	Le Groupe de travail note également que les violations des droits de la personne et la répression perdurent (notamment lors de l'adoption de la nouvelle Constitution). Le Groupe de travail s'inquiète non seulement du fait que l'Etat ne prenne pas les mesures nécessaires pour engager un véritable dialogue afin de rétablir la vérité et la réconciliation, mais également du fait qu' aucun travail de réconciliation ne pourra aboutir sans que des mesures ne soient prises pour empêcher la répétition des violations des droits de l'homme etsans volonté politique de rompre définitivement avec les pratiques de violations des droits individuels et collectifs et de consacrer le principe de non récurrence.

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	population congolaise. 60. Le Groupe de travail a remarqué toutefois que continuait à prévaloir parmi cette population une certaine crainte à témoigner et à revendiquer ses droits légitimes. Le Groupe de travail encourage par conséquent le Gouvernement à poursuivre dans cette voie du rétablissement de la confiance, en prenant les mesures nécessaires pour que chaque citoyen congolais se sente protégé par la loi, en toute égalité et sans discrimination fondée notamment sur son origine géographique ou ethnique. 61. Le Groupe de travail souligne par ailleurs que les blessures causées à la population civile par les conflits sont loin d'avoir été toutes cicatrisées. En particulier, des familles espèrent encore aujourd'hui connaître la vérité sur ce qu'il est advenu de leurs proches, victimes de disparitions forcées. Si l'histoire politique semble aujourd'hui faire l'objet d'un consensus, cimenté par une volonté de concorde, les histoires individuelles des victimes des conflits sont aujourd'hui menacées par l'oubli. 62. Le droit à la vérité est à la fois un droit collectif et un droit individuel. La vérité doit être dite à l'échelle de la société, en tant que garantie de non répétition des	République du Congo. Ces faits démontrent le manque de volonté des autorités en place pour garantir la non répétition des violations des droits humains constatés par le passé, prévenir des violations futures et garantir un pluralisme politique.	

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	violations. Parallèlement, chaque victime a également le droit de connaître la vérité sur les violations qui lui ont causé un préjudice. 63. Le droit individuel de connaître la vérité sur le sort réservé à une personne victime de disparition forcée est un droit absolu. Ce droit comporte des obligations procédurales à la charge de l'État, et notamment l'accès à un organe compétent et indépendant, ainsi qu'une obligation d'enquêter jusqu'à ce que la lumière ait été faite sur le sort réservé à la personne disparue. 64. Le droit à la vérité doit être reconnu comme un droit autonome, distinct en particulier du droit à la justice. Le Groupe de travail souligne en particulier que le droit à la vérité peut être réalisé par d'autres moyens que celui d'un processus judiciaire. Dans certaines situations, la réalisation du droit à la vérité peut affecter le droit à la justice, lorsque l'action pénale est considérée comment allant à l'encontre du but de réconciliation poursuivi par l'État et les composantes de la société congolaise. Le Groupe de travail rappelle toutefois que le pardon ne devrait être accordé qu'après un processus de paix authentique et des négociations de bonne foi		

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	avec les victimes, produisant pour résultat des excuses et l'expression de regrets de la part de l'État ou des auteurs des faits et des garanties pour prévenir les disparitions dans l'avenir. 65. Le procès de 2005 a certes constitué un premier pas dans la réalisation du droit à la vérité. Cette démarche nécessite toutefois d'être élargie à travers un programme plus large visant le rétablissement de la vérité et la réconciliation pour donner satisfaction à chaque victime et couvrant l'ensemble des violations graves des droits de l'Homme intervenues sur tout le territoire du Congo. A nouveau, les victimes de violations, et en particulier les familles de disparus, doivent être pleinement et effectivement associés à l'élaboration et à la mise en œuvre de ce programme.		
100 (m) Envisager l'établissement d'une commission pour la paix et la réconciliation, qui pourrait prendre pour base institutionnelle le Comité de suivi de la Convention pour la paix et la reconstruction du Congo ;	Se référer au paragraphe 64 mentionné ci-dessus	FIDH/OCDH: La commission pour la paix et la réconciliation n'est pas effective.	Le Groupe de travail constate qu'aucune commission ayant comme objectif la paix et la réconciliation n'a été mise en place. A cet égard, le Groupe de travail constate que l'instabilité et la tension sont toujours palpables dans le pays.

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100 (n) Le Groupe de travail prie enfin les autorités congolaises de prendre sans délai toutes les mesures nécessaires en vue de remédier à la situation des trois ressortissants de la RDC, détenus depuis presque huit ans, hors de tout contrôle légal, dans les locaux de la Direction Centrale des Renseignements militaires, qui ne constituent pas des locaux officiels de détention.	44. Le Groupe de travail est gravement préoccupé par la détention de trois personnes, originaires de la R.D.C., dans les locaux de la Direction centrale du renseignement militaire à Brazzaville, et cela depuis presque huit ans, hors de tout contrôle légal et sans avoir jamais été présentés à un juge, faisant ainsi peser sur ces personnes le risque d'être soumis à une disparition forcée. Selon les autorités, ces personnes seraient détenues en vue d'assurer leur sécurité en attendant l'aboutissement de leur demande d'asile. 46. Le Groupe de travail prie par conséquent les autorités congolaises de prendre sans délai toutes les mesures nécessaires en vue de remédier à la présente situation et de la rendre conforme à la Déclaration.	FIDH/OCDH: Les trois citoyens de la RDC ont été libérés en septembre 2012	Le Groupe de travail note avec satisfaction la libération, en septembre 2012, des trois ressortissants de la RDC qui étaient détenus dans les locaux de la Direction Centrale des renseignements militaires.
Sur l'affaire des disparus du Beach de Brazzaville (para 101 à 102):			
101 (a) Poursuivre les enquêtes en vue d'aboutir à l'identification et à la punition des	81. En août 2001, le Parlement provisoire chargé d'assurer la transition jusqu'à la mise en place des nouvelles institutions (« Conseil national de	FIDH/OCDH: Les autorités congolaises se sont largement contentées du procès mascarade de 2005, comme l'a démontré une mission d'observation judiciaire du procès et les	Le Groupe de travail constate que la société civile continue de critiquer le procès de 2005 qui n'aurait pas

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	Situation pendant la visite (A/HRC/19/58/Add.3)	Observations, mesures prises récemment et situation actuelle	État d'avancement de la mise en œuvre et observations (C/T)
responsables des disparitions forcées, ainsi qu'à l'élucidation du sort réservé aux personnes victimes de disparitions forcées dans le contexte des opérations de rapatriement menées à partir d'avril 1999.	transition » ou CNT) a décidé de la création d'une Commission d'enquête parlementaire chargée de faire la lumière sur les disparitions forcées constatées dans la République du Congo depuis 1992. La commission était composée de onze membres. Elle a tenu une conférence de presse en septembre de la même année et annoncé qu'elle auditionnerait des membres de familles et effectuerait des déplacements sur les lieux. La Commission a cependant décidé de surseoir à ses travaux en constatant que la justice congolaise avait été saisie dans le cadre de l'affaire dite des « disparus du Beach ». Par la suite, la Commission a été dissoute le 7 août 2002, en même temps que le CNT. La Commission n'a jamais rédigé de rapport de ses travaux. Après l'inauguration de la nouvelle Assemblée nationale, aucune autre commission d'enquête n'a été créée. 82. Sur demande du Comité des parents, le Ministère de la Justice a reçu une centaine de familles entre novembre et décembre 1999. En juin 2002, le doyen des juges instruction du Tribunal de Grande Instance de Brazzaville est nommé pour ouvrir le dossier et instruire l'affaire. En juin 2005, le dossier est transmis au Procureur général	personnes mises en examen dans la procédure judiciaire en France ont tenté de l'invoquer pour faire annuler la procédure au nom de l'autorité de la chose jugée (non bis in idem). Cependant, la Chambre de l'instruction de la Cour d'appel de Paris a confirmé le 9 octobre 2014 la mise en examen pour crimes contre l'humanité de Norbert Dabira, ancien inspecteur général des armées congolais. Une demande d'annulation avait été introduite par ses avocats à la suite de s a mise en examen en août 2013. La défense invoquait le fait que M. Dabira, avait été acquitté à Brazzaville en août 2005 des faits qui lui sont reprochés en France et qu'il ne pouvait par conséquent être jugé une deuxième fois pour la même affaire. Une requête similaire avait déjà été adressée par la défense de Norbert Dabira à deux reprises, en 2007 devant la Cour de cassation et en 2010 devant la juge d'instruction de Meaux, et avait été rejetée dans les deux cas. Ces décisions de la justice française stipulent explicitement que le procès tenu à Brazzaville à l'été 2005 ne respectait nullement les normes du procès équitable, et est considéré de façon quasi unanime comme étant une véritable mascarade et conforme aux déclarations du chef de l'État Denis Sassou Nguesso en 2004 selon lequel, "il y aura un procès pour démontrer la mascarade de l'OCDH et de la FIDH." Au Congo, les instructions qui auraient été données au Procureur de la République du Tribunal de Grande Instance de	respecté les standards en matière de procès équitable. Le Groupe de travail constate que, depuis ce procès, aucune enquête ne semble avoir été mise en place pour élucider le sort des vingt-trois personnes disparues, et ce, en dépit des instructions qui auraient été données par le Procureur de la République du Tribunal de Grande Instance de Brazzaville.

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations/ mesures prises récemment situation* *Actuelle*	*Etat d'avancement de la mise en œuvre et observations (G1)*
	près la Cour d'appel de Brazzaville. Seize officiers de haut rang sont accusés de génocide, crimes contre l'humanité, crimes de guerre, assassinat et arrestation, détention et séquestration arbitraires. Le 11 juillet 2005, la Chambre d'accusation renvoie le dossier devant la Chambre criminelle de la Cour d'appel, tout en notant que « l'information ouverte depuis l'an 2000 n'a pas permis au juge d'instruction de réunir des éléments probants sur l'effectivité des faits reprochés aux inculpés. » 83. Le procès dit des « disparus du Beach de Brazzaville » s'est donc tenu du 21 juillet au 17 août 2005 devant la Chambre criminelle de la Cour d'appel de Brazzaville. L'arrêt a été rendu le 17 août 2005. Les parties ont formé un pourvoi en cassation devant la Cour suprême qui a, à son tour, rendu un arrêt le 5 mai 2007. 84. Le procès devant la Chambre criminelle a été retransmis en direct par la télévision et la radio congolaise. Quatre-vingt-quatre familles ont été autorisées à se porter partie civile, tandis que les demandes d'autres familles ont été rejetées. En particulier, huit dossiers de personnes arrêtées dans des	Brazzaville d'ouvrir une enquête au sujet de vingt-trois cas de disparitions forcées qui n'ont pas été pris en compte lors du procès de 2005 n'ont manifestement pas été mise en œuvre, de sorte que, à notre connaissance, aucune instruction judiciaire n'a été ouverte sur ces cas. De même, aucune enquête effective n'a semble-t-il été ouverte par les autorités congolaises à la suite du procès de 2005.	

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	Situation pendant la visite (A/HRC/19/58/Add.3)	Observations: mesures prises récemment/situation actuelle	État d'avancement de la mise en œuvre et observations (I)
	contextes connexes à celui de l'« affaire du Beach » ont été disjoints : il s'agissait de personnes arrêtées à la même époque dans les autres couloirs humanitaires établis par l'accord tripartite, ou encore d'arrestations effectuées après le retour des rapatriés à leur domicile. Aucun autre procès n'a été ouvert ultérieurement en lien avec ces dossiers. Saisie sur ce point dans le pourvoi formé par les parties civiles, la Cour suprême a considéré que la Chambre criminelle avait à bon droit limité l'objet de l'instance, au motif qu'il aurait été impossible, dans les zones autres que le Beach de Brazzaville, de distinguer entre les civils victimes d'exaction et les combattants morts lors des affrontements armés entre factions. 85. Les accusés comparaissaient libres à l'audience, n'ayant pas fait l'objet d'une ordonnance de prise de corps. Selon diverses sources, le procès s'est déroulé dans une atmosphère de grande tension. Certaines parties civiles, menées par leur avocat, ont contesté l'indépendance de la formation de jugement. Les parties civiles disent avoir été intimidées à de nombreuses reprises par la présence de gens en armes dans la salle d'audience. En amont du		

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations, mesures prises récemment situation* *Actuelle*	*État d'avancement de la mise en œuvre et observations (GT)*
	procès, certaines personnes disent avoir renoncé à se constituer parties civiles ou venir apporter leur témoignage à l'audience par peur des représailles. Aucun dispositif n'avait été adopté pour assurer la protection des victimes et des témoins, alors même que les accusés occupaient des responsabilités de haut niveau dans les divers services de sécurité de l'Etat. 86. A l'issue des audiences, les accusés ont été acquittés. Toutefois, statuant au titre de l'action civile, la Chambre criminelle a accordé une indemnisation aux parties civiles. Elle a estimé pour ce faire que l'Etat engageait sa responsabilité sur la base d'une présomption de faute : 87. « [C]es opérations de rapatriement se réalisant dans une période de recrudescence des attaques des milices Ninjas, l'Etat se devait d'organiser scrupuleusement des mesures de sûreté générale justifiées par l'Etat de guerre. » 88. Statuant sur un pourvoi en cassation, la Cour suprême a cassé partiellement l'arrêt de la Chambre criminelle et réévalué à la hausse la plupart des indemnisations accordées aux parties civiles.		

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	Situation pendant la visite (A/HRC/19/58/Add.3)	Observations: mesures prises récemment, situation actuelle	État d'avancement de la mise en œuvre et observations (É/C)
	89. Selon les divers interlocuteurs du Groupe de travail, le procès de Brazzaville aurait eu un effet pédagogique auprès de la population, en faisant apparaitre au grand jour un épisode particulièrement tragique de la guerre civile. Selon certains, la seule vue de hauts officiers dans le box des accusés aurait été à l'origine d'une prise de conscience générale quant à la nécessité d'adopter des mesures effectives de prévention des violations futures. D'autres personnes estiment que le procès n'avait pour autre but que de disculper définitivement les accusés en vue d'empêcher toute poursuite future, créant ainsi une amnistie de fait. 90. Le Groupe de travail considère que le procès tenu en 2005 à Brazzaville a permis d'établir d'une part la certitude selon laquelle des personnes ont été victimes de disparitions forcées et d'autre part la responsabilité de l'Etat en la matière. 91. Le Groupe de travail regrette cependant que le processus judiciaire n'ait pas pu jusque là aboutir à l'identification et à la punition des responsables des disparitions forcées. Il rappelle que l'article 13 § 6 de la Déclaration stipule : « Une		

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations/mesures prises récemment/situation* *Actuelle*	*Etat d'avancement de la mise en œuvre et observations (GT)*
	enquête doit pouvoir être menée (…) tant qu'on ne connait pas le sort réservé à la victime d'une disparition forcée. » 92. Par ailleurs l'article 7 de la Déclaration dispose qu'« aucune circonstance quelle qu'elle soit, qu'il s'agisse d'une menace de guerre, d'une guerre, d'instabilité politique intérieure ou de toute autre situation d'exception, ne peut être invoquée pour justifier des disparitions forcées. » 93. A cet égard, le Groupe de travail se félicite de ce qu'instruction ait été donnée au Procureur de la République du Tribunal de Grande Instance de Brazzaville d'ouvrir une enquête au sujet de vingt-trois cas de disparitions forcées qui n'ont pas été pris en compte lors du procès de 2005. 94. Le Groupe de travail regrette également que le droit à la vérité des familles quant au sort de leur proche n'ait pas pu être satisfait. En effet, le droit des proches de connaître la vérité sur le sort des personnes disparues et le lieu où elles se trouvent est un droit absolu qui ne peut souffrir d'aucune limitation ou dérogation.		
101(b) Accorder aux proches de disparus une réparation qui aille	95. Quant au droit à réparation, le Groupe de travail relève avec satisfaction l'octroi aux familles	FIDH/OCDH: Aucune mesure d'assistance	Le Groupe de travail observe que, à l'exception de l'octroi

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations: mesures prises récemment situation* *Actuelle*	*Etat d'avancement de la mise en œuvre et observations (GT)*
au-delà des indemnisations et englobe des mesures de réadaptation et de satisfaction, en particulier une assistance psychologique et sociale aux parents.	des parties civiles au procès de 2005 d'une indemnisation au titre de la responsabilité pour faute de l'Etat. Le Groupe de travail estime cependant que cette indemnisation devrait être complétée par d'autres formes de réparation, incluant une assistance psychologique et sociale aux parents, souvent plongés dans de grandes difficultés en raison de la disparition de leurs proches.	psychologique et sociale n'a été engagée par les autorités congolaises. Cela traduit le mépris ou une façon de minimiser la gravité des infractions commises.	d'une indemnisation aux familles des parties civiles au procès de 2005, et en dépit des recommandations formulées suite à sa visite, l'État n'a pas mis en place de mesure d'assistance psychologique ou sociale aux parents de proches disparus.
101 (c) Accéder en particulier au souhait des familles de disparus d'être reçues par le Président de la République et de pouvoir commémorer, chaque 5 mai, les disparus du Beach de Brazzaville	96. Les familles des disparus ont par ailleurs exprimé le souhait d'être reçues par le Président de la République en signe de reconnaissance de leur douleur. Elles ont également demandé à être autorisées à organiser une cérémonie en hommage aux disparus au Beach de Brazzaville, le 5 mai de chaque année. […]	FIDH/OCDH: Le Gouvernement congolais a toujours refusé la commémoration des disparus du Beach. Ainsi en novembre 2007, à l'occasion de la tenue de la session de la Commission africaine des droits de l'Homme et des Peuples (CADHP) à Brazzaville, la FIDH et l'OCDH ont tenté d'organiser une commémoration des disparitions au Beach de Brazzaville le 13 novembre 2007 qui a été interdite par les autorités congolaises, arguant le risque de trouble à l'ordre public.	Le Groupe de travail observe avec regret qu'en dépit de ses recommandations selon lesquelles il était souhaitable d'organiser une cérémonie en hommage aux disparus du Beach de Brazzaville et de recevoir les familles des disparus, le Gouvernement semble toujours refuser une telle reconnaissance et l'intervention d'une commémoration. Le Groupe de travail a également reçu des informations selon lesquelles des organisations de la société civile auraient

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations/ mesures prises récemment/ situation* *Actuelle*	*Etat d'avancement de la mise en œuvre et observations (GT)*
			organisé une telle commémoration, mais que cette dernière aurait été interdite par les autorités.
102 (a) Etablir un rapport public établissant les conditions dans lesquelles l'UNHCR a été amené à participer au rapatriement des réfugiés du Congo à Brazzaville, entre avril et décembre 1999 ;	76. Entre avril et la mi-mai 1999, le rôle du UNHCR – qui agissait en vertu de l'accord tripartite mentionné plus haut – a consisté à enregistrer et à accompagner les « rapatriés » jusqu'aux bateaux qui, depuis le port de Kinshasa, devaient les conduire de l'autre côté du fleuve Congo. L'UNHCR s'assurait du consentement au retour des réfugiés en faisant signer aux chefs de familles ou aux chefs de groupes une « déclaration de bonne foi ». Par la suite, chaque personne présente sur les listes des rapatriés devait signer un « manifeste » à l'embarquement. L'UNHCR a pu constater que certaines des personnes ayant signé lors de leur embarquement n'étaient jamais arrivées à destination, corroborant ainsi les allégations de certaines familles de disparus, selon lesquelles leurs proches avaient été retenus par les autorités à leur arrivée au Beach. 77. Le 21 mai 1999, le UNHCR a écrit une lettre au ministère congolais des affaires étrangères, en adressant copie de cette lettre au Ministre de	FIDH/OCDH: Ce rapport sur l'implication de l'UNHCR n'a jamais pu être établi. UNHCR: Les principaux éléments sont déjà indiqués aux paragraphes 76 à 80 du rapport A/HRC/19/58/Add3 du 20 Janvier2012.	Le Groupe de travail constate qu'aucun rapport public n'a été adopté établissant les conditions dans lesquelles l'UNHCR a été amené à participer au rapatriement des réfugiés du Congo à Brazzaville entre avril et décembre 1999.

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	Situation pendant la visite (A/HRC/19/58/Add.3)	Observations, mesures prises récemment, situation actuelle	État d'avancement de la mise en œuvre et observations (GT)
	l'intérieur, au Ministre de la Santé ainsi qu'au représentant résident par intérim du PNUD à Brazzaville. Dans cette lettre, l'UNHCR protestait contre le traitement infligé aux rapatriés et citait plusieurs allégations de violations commises à l'encontre de ces personnes dans les couloirs humanitaires établis en vertu de l'accord tripartite. Les opérations de facilitations menées par l'UNHCR furent suspendues jusqu'à ce que des assurances soient données par le gouvernement du Congo, en vertu desquelles le UNHCR se voyait garantir l'accès aux rapatriés afin de superviser les conditions de leur retour. 78. Sur la base de ces assurances, à partir de la fin mai 1999, l'UNHCR a pris des mesures pour tenter d'assurer la sécurité des rapatriés à leur arrivée à Brazzaville. Les rapatriés étaient conduits vers des centres de regroupement, en particulier au Centre sportif de Makélékélé, où ils étaient à nouveau enregistrés avant d'être redirigés vers leurs domiciles. 79. Malgré ces mesures, de nombreuses allégations concordantes font état de la poursuite des disparitions forcées à l'encontre des rapatriés. Plusieurs allégations font état		

Recommandations (A/HRC/19/58/Add.3, paragraphes 100-103)	*Situation pendant la visite (A/HRC/19/58/Add.3)*	*Observations/mesures prises récemment/situation actuelle*	*État d'avancement de la mise en œuvre et observations (GT)*
	d'arrestations dans le centre sportif de Makélékélé qui, comme le Groupe de travail a pu le constater, constitue un espace très vaste, entouré de murs facilement franchissables. D'autres allégations font état d'arrestations lors du retour des rapatriés vers leur domicile après leur passage par le Centre, ou bien même à leur domicile peu après leur arrivée.		
102 (b) Formuler publiquement les leçons qui peuvent être tirées de tels événements, pour ce qui concerne les modalités de rapatriement des réfugiés dans des zones de conflit.	80. Le Groupe de travail s'est enquis auprès de l'UNHCR au sujet des mesures qui avaient été prises pour enquêter sur ces faits et en tirer les conclusions nécessaires pour des opérations futures (lessons learnt). Selon l'UNHCR, la responsabilité d'enquêter sur les disparitions relève des autorités nationales. Dans ses opérations de rapatriement, l'agence se réfère aux procédures définies dans un certain nombre de documents officiels adoptés à cette fin, comme le « manuel pour les activités de rapatriement et de réintégration ».	UNCHR: Le UNHCR a des politiques, des procédures et des directives bien établies : Celles-ci sont disponibles dans le domaine public sur l'ensemble du cycle du rapatriement des réfugiés, y compris concernant les situations qui peuvent moins optimales pour autant que la sécurité et la dignité de retour est concernée. Parmi celles-ci: le manuel du UNHCR sur le Rapatriement Volontaire et le manuel pour les Activités de Rapatriement et de Réintégration. Le manuel de rapatriement volontaire est en cours de mise à jour et intégrera l'expérience acquise lors du rapatriement en République du Congo, ainsi que d'autres situations.	Le Groupe de travail souligne l'effort de l'UNHCR d'intégrer l'expérience acquise lors du rapatriement de 1999 dans son manuel de rapatriement volontaire.
103. Le Groupe de travail recommande à la Communauté internationale d'apporter au Congo l'assistance appropriée			Réitère sa disposition à apporter son soutien et son expertise à la République du Congo en vue d'élucider le sort de toutes les

Recommandations *(A/HRC/19/58/Add.3, paragraphes 100-103)*	*Situation pendant la visite* *(A/HRC/19/58/Add.3)*	*Observations, mesures prises récemment situation actuelle*	*État d'avancement de la mise en œuvre et observations (E(1)*
en matière de renforcement des capacités techniques pour la promotion et la protection des droits de l'homme.			victimes de la disparition forcée dans le pays et à mettre en place les mesures de non récurrence".

III. Pakistan

Follow-up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances in the report of its visit to Pakistan from 10 to 20 September 2012 (A/HRC/22/45/Add.2)

22. On 18 December 2015, the Working Group on Enforced or Involuntary Disappearances requested the Government of Pakistan to provide information on measures taken to implement the recommendations that were made in the report A/HRC/22/45/add.2 (paras. 87-100), after its visit to the country in September 2012. On 4 February 2016, the Government of Pakistan provided the requested information. On 29 June 2016, the Working Group sent the below table for comments to the Government of Pakistan, which provided additional information on 19 August 2016.

23. The Working Group thanks the Government of Pakistan for the cooperation throughout the process of the follow-up report, but regrets that most of the recommendations contained in its country visit report have not been implemented.

24. The Working Group is still gravely concerned about the reported widespread practice of enforced disappearances in Pakistan and the very high number of cases received recently, especially in relation to Sindh.

25. The Working Group observes that there is a climate of impunity in Pakistan with regard to enforced disappearances, and the authorities are not sufficiently dedicated to investigate cases of enforced disappearance and hold the perpetrators accountable. The Working Group believes that stronger commitment from the Government is needed to end the enforced disappearances and the climate of impunity surrounding them. The Working Group would also appreciate receiving information on concrete cases where perpetrators of enforced disappearances have been held accountable in Pakistan

26. The Working Group remains concerned about reported cases of threats, reprisals and harassment against families of disappeared persons and human rights defenders including lawyers who work on issues related to enforced disappearance. The Working Group stresses that relevant authorities in Pakistan should intensify their actions to prevent and address all cases of harassment and take proactive measures to guarantee the safety of the family members of the disappeared and the human rights defenders.

27. The Working Group is concerned at the information that there are persons who are detained in unofficial detention centers with no contact with their families and lawyers. The Working Group stresses that, in accordance with article 10 of the Declaration, any person deprived of liberty shall be held in an officially recognized place of detention and be brought promptly before a judicial authority.

28. The Working Group reiterates that the current constutional, legal and regulatory framework does not provide sufficient procedural safeguards to all persons deprived of liberty. In particular, it urges Pakistan to make necessary amendments to its domestic legislation including the provisions in the legislation related to "preventive detention" and "arrest without warrant". With reference to the Protection of Pakistan Act, 2014 - on which the Working Group has previously expressed concern for not being in conformity with internationally recognized human rights standards - the Working Group notes the information provided by the Government that this was was a temporary measure that lapsed in July 2016. The Working Group continues to acknowledge the serious security challenges faced by Pakistan while at the same time emphasizing that it shall ensure that human rights

and fundamental freedoms are always respected while taking actions combating terrorism, in accordance with article 7 of the Declaration.

29. The Working Group regrets the information provided by the Government according to which the provisions currently existing in domestic legislation would be adequate to cover the crime of enforced disappearances, despite a previous commitment to specifically criminalize enforced disappearance made as an outcome of the 2012 Universal Periodic Review. The Working Group urges Pakistan to swiftly criminalize enforced disappearance.

30. The Working Group notes with concern that Pakistan has not ratified yet the International Convention for the Protection of All Persons from Enforced Disappearance. The Working Group reiterates its call on the Government to ratify the Convention and to recognize the competence of the Committee on Enforced Disappearances to consider individual and inter-State complaints, pursuant to articles 31 and 32 of the Convention. The Working Group also urges the Government of Pakistan to take steps to implement the recommendation on the ratification of the Rome Statute of the International Criminal Court.

31. While appreciating the establishment of the "Commission of Inquiry on Enforced Disappearances", the Working Group continues to be concerned about the efficiency and proper method of work of the Commission. The Working Group welcomes the appointment of a new member of the Commission of Inquiry and the information that the Commission arranges for parallel hearing of cases in Islamabad, Lahore and Karachi. However, given the increased workload, the Commission still remains understaffed and must be reinforced. The Working Group recommends that, as a rule, relatives of disappeared persons should be heard in confidential meetings before the Commission.

32. The Working Group welcomes the Prime Minister's announcement, on Nov 8, 2015, to establish a Federally Administered Tribal Areas (FATA) Reforms Committee. The Working Group urges the Government to take immediate action to bring about actual changes. The Working Group also encourages the Government of Pakistan to share any information on the outcome of the work of the Committee on the reforms.

33. The Working Group believes that improvements should be made for the effective roles of the Courts and the Commission of Inquiry. Although the Government asserts that there is no limitation with regards to the competence of the High Courts in the exercise of their powers, the Working Group remains concerned that article 199(3) of the Constitution still legally bars the High Courts from hearing cases related to the armed forces. Such a limitation on the powers of High Court should be removed. The Working Group is encouraged by the fact that the Supreme Court formulated a series of questions to be considered regarding the trial of army personnel in civilian courts and that it submitted a request to the Supreme Court Chief Justice for a larger bench consisting of 5 Supreme Court judges to be constituted. The Working Group would like to receive information on the decision of the larger bench thereupon.

34. In spite of the Government's indication that they always are, the orders issued by the Commission of Inquiry are reportedly not being respected, notably by the security or intelligence agencies. The Government should take all necessary measures to ensure that all enforcement or intelligence agencies comply with the orders of the Commission of Inquiry and of the Courts.The Working Group is also concerned that the newly constituted National Commission for Human Rights has been explicitly barred under its establishing statute from inquiring into the practices of intelligence agencies. The Working Group reiterates the recommendation contained in its 2012 visit report that clear rules and dedicated institutions should be created to ensure the oversight and accountability of law enforcement and intelligence agencies.

35. The Working Group regrets that no action has been taken to address the legal uncertainty created by the absence of the disappeared person. The Working Group reiterates

its recommendation to introduce a system of declaration of absence as a result of enforced disappearance to minimize the negative impact on the rights and freedoms of families of disappeared persons.

36. The Working Group is concerned that no comprehensive mechanism for full and prompt reparation, including social and medical assistance to relatives of disappeared persons, has been established and regrets the information that family pensions are granted to wives of disappeared persons only if the disappeared person was a government servant. The Working Group believes that a special fund should be arranged to support the relatives of disappeared persons, which should not be limited to financial compensation, and that social allowances or other assistance should be made available to victims, including families, of enforced disappearances. The Working Group welcomes the information that the Federal Government is considering the formulation of a comprehensive policy in this regard and reiterates that a comprehensive program of reparation should be set up for full rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition.

37. The Working Group appreciates the Government's willingness to engage with Special Procedures, but notes that after the visit of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism from 11 to 13 March 2013, there have been no invitations made by the Government. The Working Group encourages the Government of Pakistan to invite, among others, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, all of whose invitation requests are pending.

38. The Working Group stands ready to assist the Government of Pakistan in the implementation of these recommendations. In this regard, it encourages the Government of Pakistan to consider inviting the Working Group for a follow-up visit to the country.

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations/ steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
87. Concerning reports received according to which some of the persons with whom the delegation met had been threatened or intimidated.(a) The Working Group calls on all relevant State authorities to guarantee the safety of those who met with the delegation and to protect them against any form of reprisal, threat or intimidation.	51. The Working Group is concerned at the reports received according to which some of the persons with whom it met were threatened or intimidated.	Government: In Pakistan all citizens are free to express their opinion and views. No case of reprisal, harassment or intimidation (concerning families of allegedly disappeared persons or human rights defenders or lawyers) has been reported to the Police, any Court, to the Commission of Inquiry on Enforced Disappearances (CoIoED), or any state authority by any individual or civil society organization. The Government remains committed to take action on any case brought before a competent authority of the state. Other: […] has not come across information as to whether any particular steps were taken by the Government of Pakistan to secure the safety of those who met with the delegation. ICJ and HRCP: Human rights groups who work on enforced disappearances in Pakistan continue to report that families of disappeared persons are frequently threatened and harassed by members of security agencies, making it very difficult for them to report and pursue cases of their disappeared family members. In particular, the Chairperson of the Voice for Baloch Missing Persons (VBMP), Mr. Nasrullah Baloch, has reported multiple incidents of such threats. The harassment and intimidation is not	The Working Group is concerned about the reported cases of reprisal and harassment against families of disappeared persons and human rights defenders and lawyers who work on issues related to enforced disappearance. The Working Group takes note of the Government's commitment to take action in such cases and emphasizes that all cases of harassment and reprisals should be adequately addressed by the relevant authorities and that proactive measures should be taken to guarantee the safety of the family members of the disappeared and the human rights defenders.

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations/ steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		restricted to those directly pursuing cases against perpetrators of enforced disappearances – human rights defenders and activists highlighting the practice and drawing public attention to the State's practice of disappearances and corresponding impunity are also targeted. During the 2013-2014 "long march" of families of disappeared persons and activists, the protestors reported constant harassment and threats. In March 2015, three of the marchers, including Mama Qadeer and Farzana Majeed, were stopped from flying to the United States to attend a conference and were told their names had been placed on the Exit Control List because of alleged "anti-state" activities. These recent cases come against the background of a longer history of harassment and intimidation, mentioned in the Working Group's report on the visit. Journalists covering the issue of enforced disappearances are also targeted. Hamid Mir, a prominent Pakistani journalist and television anchorperson who reported on the "long march" for the recovery of Baloch "missing persons" was shot in Karachi on 19 April 2014, shortly after the "long march" ended. In April 2015, peace activist Sabeen Mehmud was subjected to a targeted attack by "unknown assailants" in Karachi after a discussion she had arranged on the human rights situation in Balochistan, including the incidence of enforced disappearances. She was killed while driving towards her home after the event, and her mother was	

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		injured. Prior to the event, Sabeen had received warnings from persons purporting to represent Pakistan's intelligence agencies, asking her to cancel the event. Committee for Missing Persons: Threats against concerned families, persons and groups who work on enforced disappearances continuously occur. For instance, Ms. Sabeen Mahmood was murdered on 24 April 2015 in Karachi; Mama Qadeer, chairman of Voice for Baloch Missing Persons was stopped at the Jinnah International Airport when he was going to visit the USA in 2014; and illegal arrest and torture of Mr. Syed Babar Anis on 12 September 2014. (See para 95, A/HRC/WGEID/104/1) Voice for Baloch Missing Persons Series of intimidation and threats against families of victims are ongoing. Other: The persons who were threatened during the visit of the Working Group were not bothered again. Though usual practice of intimidations, harassments and threats to families of victims are rampant in general. There have been threats to Human Rights defenders working with [....] in the past which culminated in the disappearance of one member. His name is Rizwan Akram Niazi for which an urgent appeal has been sent to Working Group.	

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		Other: a) Syed Babar Anis – the brother of Syed Gohar Anis who disappeared in 1996 – met the Working Group during its visit to Pakistan. When Syed Babar Anis was invited to attend a meeting in Geneva in 2014, officials of intelligence agencies kept him in detention for 2 weeks to prevent him from attending the meeting. Intimidation against those who met the Working Group thus continued. b) Mr Nasrullah Baloch, the Chairperson of Voice of Baloch Missing Persons (VBMP) was subjected to death threats and intimidation by State security forces, following his appearance at the Supreme Court hearing regarding cases of missing persons. He has come to prominence for his work on cases of missing persons and extrajudicial killings. The human rights defender is also assisting the Supreme Court in the context of an investigation into mass graves in Balochistan.	
		Other: The situation remains the same: lawyers and workers from non-governmental organizations are abducted by para-military forces for denouncing enforced disappearances. One example is Syed Baber Anis from the Committee for Missing Persons, who was brutally tortured by the Para-military rangers.	
88. (a) The Working		Government:	The Working Group

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Group encourages the Government to invite other special procedures mandate holders in the near future to visit Pakistan.		Government continues to engage with Special Procedures. At the invitation of the Government, former High Commissioner for Human Rights visited Pakistan from 4 to 8 June 2012. Three Special Procedures, i.e., Special Rapporteur on Independence of Judges and Lawyers (19 – 29 May 2012) and Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism also visited Pakistan from 11 to 13 March 2013. The Government has extended an invitation to the UN High Commissioner for Human Rights to visit the country. Invitations/visits of some additional Special Procedures are under active consideration. Besides, we continue to engage with UN human rights mechanisms, inter alia, through responding to their communications. ICJ and HRCP: The Government of Pakistan has not extended any new invitations to special procedures. Among others, invitation requests are pending from the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment since 2011; Special Rapporteur on extrajudicial, summary or arbitrary executions since 2012; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association since 2013. UNPO:	appreciates the Government's efforts to engage with Special Procedures including the visits of the Special Rapporteur on Independence of Judges and Lawyers (19 – 29 May 2012) and the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism (from 11 to 13 March 2013). The Working Group encourages the Government of Pakistan to invite, among others, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on the rights to freedom of peaceful assembly and of association.

Recommendations A/HRC/22/45/Add.2	*Situation during the visit A/HRC/22/45/Add.2*	*Observations / steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		Pakistan has not received visits from any other UN special procedures mandate holders since the 2012 visit by the WGEID. There are various pending visit requests from different Special Rapporteurs. There is no sign that the Pakistani government have encouraged UN bodies and special rapporteurs to visit the country, nor to indicate further cooperation with international organization in the field of human rights. Other: The Working Group's visit to Pakistan was the last visit undertaken by special procedures mandate holders. Other: Since the visit of the Working Group none of the holders of special procedures has visited Pakistan. Other: The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson, conducted a three-day visit to Islamabad, Pakistan between 11 and 13 March 2013. This visit took place in connection with the Special Rapporteur's ongoing inquiry into the civilian impact of the use of drones and other forms of targeted killing in the context of counter-terrorism operations.	whose invitation requests are pending.
89. (a) The Working Group calls on the		Government:	The Working Group notes with great

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations, steps taken, current situation	Level of implementation and observations (to be filled by the Working Group)
Government to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to recognize the competence of the Committee on Enforced Disappearances to consider individual and inter-State complaints, pursuant to articles 31 and 32 of the Convention.		Pakistan is party to seven core human rights treaties. The Government is focused on implementation of its obligations which arise from these treaties which it has ratified during the last decade. The Government of Pakistan remains committed to addressing the issue of enforced disappearances as an obligation to its people. The decision to ratify the Convention on Enforced Disappearances remains under consideration. Other: Pakistan has failed to ratify the International Convention for the Protection of All Persons from Enforced Disappearance despite its commitments to do so since 2008, nor have any steps been taken in this direction. No steps have been taken to allow individual and inter-state complaints to be heard by the Committee either. There is no law in Pakistan that makes enforced disappearance criminal under national law. ICJ and HRCP: Pakistan has taken no steps to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to recognize the competence of the Committee on Enforced Disappearances to consider individual and inter-State complaints. UNPO: Despite calls from local and international human rights organizations, Pakistan has not shown any move towards the ratification of the International Convention	concern that Pakistan has not committed to ratify the International Convention for the Protection of All Persons from Enforced Disappearance. Considering the largely increased number of cases of enforced disappearances brought to the attention of the Working Group since its visit, the Working Group urges Government of Pakistan to confirm its willingness to address this issue. The Working Group reiterates its call on the Government to ratify the Convention and to recognize the competence of the Committee on Enforced Disappearances to consider individual and inter-State complaints, pursuant to articles 31 and 32

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations: steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		for the Protection of All Persons from Enforced Disappearance. Other: Although […] and other CSOs have been calling upon the Government to ratify the Convention but Government has not shown any interest in this regard. Other: Pakistan has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance.	of the Convention.
89. (b) The Working Group also recommends the ratification of the Rome Statute of the International Criminal Court, which includes enforced disappearances as a crime against humanity		Government: We take note of the recommendation. Other: Pakistan has not ratified the Rome Statute of the International Criminal Court and no commitment to this effect has been made either. Enforced disappearance is not considered a crime under national law. ICJ and HRCP: The Government of Pakistan has taken no steps to ratify the Rome Statute of the International Criminal Court. Committee for Missing Persons: In Pakistan, the Joint Investigation Team (JIT) has concluded that most missing persons cases are enforced disappearances but they have never held anyone	The Working Group is concerned that the Government of Pakistan has not taken any step to implement the recommendation on the ratification of the Rome Statute of the International Criminal Court. The Working Group reiterates its recommendation in this regard.

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		responsible for it. UNPO: Pakistan has not shown any move towards the ratification of the Rome Statute of the International Criminal Court. Other: Pakistan has not ratified the Rome Statute of the International Criminal Court. Other: The Rome Statue has not been ratified either. In fact there is little awareness about ICC in Pakistan. Other: Pakistan has not ratified the Rome Statute on the basis of several objections, including the fact that the Statute does not provide for reservations upon ratification or accession, the inclusion of provisional arrest, and the lack of immunity for heads of State.	
90. The Working Group emphasizes that actions taken to deal with security threats, and in particular with terrorism, must at all times respect nationally and internationally recognized	27. Specific regulations have been devised to address specific matters or situations. The Anti-Terrorism Act of 1997 provides a legal framework for the prevention and punishment of terrorist activities. Section 4 of the Act makes it lawful for the federal Government to order, or	Government: Pakistan's counterterrorism efforts are in full compliance with its national and international human rights obligations. Pakistan had been confronted with the challenge of terrorism. Terrorists have killed thousands of innocent civilians thus depriving them of their fundamental right	The Working Group stresses that Pakistan should ensure that human rights and fundamental freedoms are protected while taking actions combating terrorism.

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human rights.	for the provincial Government to request, the presence of military or civil armed forces in any area for the prevention and punishment of terrorist acts. Section 5 allows an officer of the police, armed forces and civil armed forces to arrest, without warrant, any person who has committed an act of terrorism or a scheduled offence, or against whom a reasonable suspicion exists that the person has committed, or is about to commit, any such act or offence. 28. Regulations to provide for Actions in aid of civil power (AACP) in the Federally Administered Tribal Areas (FATA) and in the Provincially Administered Tribal Areas (PATA) are intended to address the "grave and unprecedented threat to the territorial integrity of Pakistan by miscreants and foreign funded elements" (second preambular paragraph). It allows the federal Government to requisite the armed forces in respect of any defined area to carry out actions in aid of civil power (sect. 3). It is difficult to assess whether these regulations were conceived to apply specifically to a zone of conflict. It is clear, however, that the regulations	to life. The Government is committed to combating terrorism in accordance with the National Action Plan to combat terrorism. Due to the efforts of the Government terrorists incidents have declined considerably in 2015. Implementation of NAP would further help to safeguard rights of all citizens. It is reiterated that even in the face of extra ordinary circumstances, the counter terrorism efforts of the Government of Pakistan are in full compliance with its national and international human rights obligations. The provisions enumerated in Anti-Terrorism Act 1997 are in compliance with human rights obligations and sufficient safeguards have been provided to ensure protection of human rights. It may be underlined that Pakistan Protection ACT 2014 was a temporary measure (for two years) with a sunset clause and has already lapsed in July 2016. The fact that only 30 individuals have been tried under PPA demonstrates that it had been only used in extraordinary circumstances against terrorists who have committed serious crimes and carried out terrorist activities. Other: Actions taken by Pakistan's security forces and criminal justice system to deal with security threats and terrorism are a clear violation of Pakistan's obligations under international human rights law. On January 7, 2015, the Government enacted a constitutional amendment	The Working Group is concerned that Pakistan's counterterrorism campaign is not compatible with human rights standards in Pakistan and is in violation of international human rights law. In particular, several provisions in the Anti-Terrorism Act 1997 and the Protection of Pakistan Act 2014 are in violation of internationally recognized human rights standards. It takes note that the Pakistan Protection Act was a temporary measure that lapsed in July 2016.

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	take up some of the principles of international humanitarian law and of human rights law: it imposes the armed forces to take "feasible precautions" (sect. 4) and prohibits the use of torture or inhuman or degrading treatment (sect. 15). At the same time, it allows the Governor of the Province to issue an order of internment on the basis of a mere security threat. Only after 120 days does the "interning Authority" have the obligation to notify the internment to an oversight board comprising two civilians and two members of the military (sect. 14, para. 1). The board is then to periodically review the conditions of internment centres and recommend suitable action for the consideration of the provincial Government (sect. 14, para. 2). The board is also in charge of protecting the human rights of internees and, in particular, to take notice of any complaint or information with regard to any degrading treatment or torture against an internee, with the possibility of recommending "suitable departmental action against the official concerned". 29. In the opinion of the Working Group, the compatibility of the Anti-	permitting military courts to prosecute terrorism suspects after Tehreek-e-Taliban Pakistan gunmen attacked Army Public School in Peshawar on December 16 2014. The law allows the state to arbitrarily detain suspects and increases the risk that they will be subjected to enforced disappearance. It also allows prosecution of suspected terrorists in secret military courts as part of a wider new 'National Action Plan'. These military courts deny the due process of law by operating with complete lack of transparency. The process through which cases are continuing to be selected and referred to the military courts is not made available, and no independent monitoring of the cases has been allowed, raising serious fair trial concerns. In disregard of the recommendations, Pakistan has passed the Protection of Pakistan Act 2014. Under this law, the law enforcement agencies have the powers to shoot on sight any terror suspect by seeking approval of only a 15 grade official and also the power to detain a suspect for 90 days without presenting him or her before any court of law. In some cases the burden of proving innocence also shifts on the accused. The Act also applies retrospectively and provides immunity for security officers acting in "good faith". Suspects do not have access to lawyers, despite what it is provided for in Article 14(3) (b) of the ICCPR, to which Pakistan is a state party. The Rangers have been given extensive powers by virtue of the Anti-Terrorism Act to use force, conduct raids and arrest	

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	Terrorism Act and of the AACP Regulations with international standards should be carefully examined, given that they would appear to allow forms of arbitrary deprivation of liberty, which may create themselves the conditions for the occurrence of enforced disappearances.	suspects for the prevention of 'terrorism' in Karachi. As a result of this, arbitrary detention, harassment, intimidation of human rights defenders, journalists, and political activists has been regularly reported. There have also been reports of enforced disappearances and extrajudicial killings in Karachi and other parts of Pakistan. ICJ and HRCP: Pakistan's response to security threats has become increasingly incompatible with national and international human rights, particularly since the attack on a school in Peshawar in December 2014. Pakistan lifted the informal moratorium on the death penalty in December 2014 for terrorism cases, followed by the resumption of executions in all cases in March 2015. According to HRCP's documentation, since then at least 344 people have been executed in the country. In January 2015, the Pakistan Parliament amended the Constitution to allow military courts to try civilians suspected of involvement in terrorism-related offences. The Supreme Court upheld the validity of the new law in August 2015. Since the amendments, the Pakistan Government has constituted 11 military courts to hear terrorism-related cases. Military courts have concluded the trials of 64 people, finding the defendants guilty in 40 cases. 36 people have been sentenced to death and four have been given life	

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		sentences. Nearly a hundred cases are still pending before the various military courts in the country. Eight civilians convicted by military courts in secret trials for their involvement in "terrorist activities" have been hanged. Proceedings before Pakistani military courts fall well short of national and international standards requiring fair trials before independent and impartial courts: • Judges are part of the executive branch of the State and continue to be subjected to military command; • The right to appeal to civilian courts is not available; • The right to a public hearing is not guaranteed and not respected in practice; • A duly reasoned, written judgment, including the essential findings, evidence and legal reasoning, is denied; • The procedures of military courts, the selection of cases to be referred to them, the location and timing of trial, and details about the alleged offences are kept secret; and • The death penalty is implemented after unfair trials. In addition to these concerns, the ICJ has also received reports that suspects being tried by military courts had previously been subjected to enforced disappearance. In at least five cases, families of persons	

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		convicted by military courts claim the whereabouts of their loved ones had been unknown for many years till they read about their sons and fathers being convicted by military courts. In some cases, there are also reports that military courts are trying juvenile offenders, a practice that is incompatible with international human rights standards. Before the 21st Amendment, the Parliament passed the Protection of Pakistan Act in July 2014 to purportedly to strengthen Pakistan's efforts to fight insurgencies, "terrorism" and other unspecified threats faced by the country. Section 8 of the PPA authorizes the government to establish Special Courts to try Scheduled Offences. It empowers the government, in consultation with the chief justice of the relevant high court, to appoint serving or former judges of Sessions Courts or Advocates of the High Court with at least 10 years experience to serve as judges of the Special Court. The implementation of the Protection of Pakistan Act, particularly trial by special courts constituted under the Act, remains slow and uneven throughout the country. Five special courts have so far been constituted under the Act: three special courts, one each in Quetta, Lahore and Peshawar, were constituted in January 2015; one special court in Karachi was constituted in May 2015; and one special court in Islamabad was constituted in September 2015. According to media	

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		reports that quote a senior official of NACTA (National Counter-Terrorism Authority), the Ministry of Interior has cleared "hundreds of cases of peace disrupting elements" for trial before the special courts. As of 1 January 2015, proceedings have not commenced before any of the five special courts constituted under the PPA. Reasons for the delay include failure of the Government to provide judges of special courts facilities such as security, court staff, residences and official vehicles. Provisions of the PPA have been used to keep people in custody for long periods of time, including in preventive detention. The Muttahida Qaumi Movement (MQM) has alleged that the PPA is being used for political victimization in Karachi, and has been used to arrest dozens of MQM activists. The Pakistan People's Party (PPP) has also made similar claims, especially after the Federal Investigation Agency (FIA) was given powers of detention and interrogation under the PPA to "eradicate militancy" and "combat financial terrorism". Since all Scheduled Offences under the PPA are non-bailable, those arrested under the Act remain in detention arbitrarily and indefinitely, as special courts under the law remain non-functional. There are also concerns that the long periods of preventive and secret detention authorized under the Act will be invoked to facilitate or seek to justify enforced disappearances.	

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		Committee for Missing Persons: The Anti-Terrorism Act (ATA) of 1997 provides the legal framework for the Government to prevent and punish terrorism activities. Article 11 of the ATA is being used against the Mohajir Quami Movement (presently Muttahida Quami Movement) and its workers and supporters who belong to Muhajir Community in Pakistan. UNPO: Following the terrorist attack in Peshawar in 2014, the Government of Pakistan launched its National Action Plan, comprising different measures to combat terrorism, such as the end of the moratorium on executions and the establishment of speedy trial military courts for terrorism-related offences. In 2014, the Senate passed the Protection of Pakistan Act (PPA) after many discussions and some small changes from its first proposal. The act is in force until 2017, unless the Parliament decides to extend it to 3 more years. It is the most important piece of legislation in Pakistan on security matters. Generally, the PPA contains many provisions contrary to human rights standards. It expands the power of law enforcement and intelligence agencies, while hampering legal safeguards and judicial remedies. It allows arrests without warrant, violation and seizing of property, preventive detentions, undisclosed places of	

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		detention and room for impunity of law enforcement agents. Also alarmingly, it places the burden of proof on the accused (art. 15) and states a material retroactivity of law (art. 6(5)). Therefore, the Protection of Pakistan Act is not in conformity with internationally recognized human rights standards, and it exemplifies Pakistan's violation of its commitments under ratified human rights treaties. Also alarming, the PPA allows forms of arbitrary deprivation of liberty and, together with other provisions, creates the conditions for the recurrence of enforced disappearances. Other: a) In July 2014, the Government passed the Protection of Pakistan Act (PPA), a counter terrorism legislation that goes against international human rights standards and legalizes abuses by the security forces. The PPA grants security forces the power of arbitrary arrest and preventive detention. (World Report 2015: Pakistan, HRW). Internationally recognized human rights thus continue to be violated under the pretext of counter terrorism. b) Pakistan has violated its international commitment to non-refoulement by repeatedly pushing for the repatriation of Afghan refugees within its borders by creating harsh conditions for their survival. Afghan refugees have been targets of random search, warrantless arrests and	

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A/HRC/22/45/Add.2	A/HRC/22/45/Add.2	indefinite preventive detention by law enforcement agencies forcing them to return to Afghanistan. c) On 5 August 2015, Pakistan's Supreme Court ruled that special Anti-terrorism courts are legal and can pass death sentences on civilians. This may be viewed as particularly significant since the country's courts have been viewed as the most effective bulwark of civil liberties, repeatedly instructing the military authorities to register and report those being held in custody, to ensure humane treatment and to allow access to family and legal representation. Other: The so called "war on terror" has taken new dimensions in Pakistan. Since the visit of the Working Group a number of amendments in Anti-Terrorism Act of 1997, Army Act, Constitution of Pakistan and promulgation of Protection of Pakistan Act (PPA) have been introduced. All these legislative measures provide for complete impunity for enforced disappearance. Rather, these steps have legalised enforced disappearance as an integral tool for investigations. The safeguards provided in AACP are not acted upon. Oversight boards have been created but their work is completely hidden from civil society. […] has met a few civilian members of oversight boards; they have declared on condition of anonymity that they are powerless to influence the	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations, steps taken, current situation	Level of implementation and observations made by the Working Group
		management of Internment centres created under AACP and controlled by Army Although no official report of conduct of oversight boards is available but ground reality tells a number of facts about the conditions of Internment centres. […] has recorded a number of cases where dead bodies of formerly disappeared persons were handed over to the families. In almost all cases, the families reported that dead bodies contained signs of torture and severe loss of weight due to starvation. No post-mortem report is provided to the families. In at least one post mortem report, conducted by the family later on, it was revealed that the death took place due to starvation. Apart from known deaths in internment centres there are a few witness accounts from the released persons who reported prevalence of torture in internment centres. None of the released person ever recounted visit of internment centre by civilian official or any activity of the oversight board as written in the AACP. Our observation is that all the provisions of AACP to safeguards rights of the interned persons are not implemented in reality. Voice for Baloch Missing Persons: Anti-Terrorism Act 1997 allows deployment of federal forces in any part of the country and allows arrest by law enforcement agencies without producing any warrant. It has been observed that this Act is mostly being applied in Balochistan.	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations/ steps taken/ current situation	Level of implementation and observations (to be filled by the Working Group)
		In Balochistan, the provincial Government admitted arrest of more than 9000 persons. The families of these victims are not informed about the fate or whereabouts of their loved ones. Many dead bodies of victims of enforced disappeared are found in various parts of Balochistan with signs of torture, which entail violations of human rights. Other: Pakistan has arrested more than 500 people for their alleged links with different extremist and militant groups. Police records indicate that most of the arrests were conducted in the province of Punjab, where more than 300 people were arrested. About 100 people were apprehended in Karachi. The authorities also arrested 150 people from Balochistan and Khyber-Pakhtunkhwa provinces. An official of interior ministry said that those arrested will be prosecuted under the recently passed Protection of Pakistan Act under which police can hold an accused for 60 days without trial. However, no authentic figures are available. Anti-Terrorism Act does not meet the Action in Aid of Civil Power (AACP) Regulations. Provisions under this Act may deprive men of his fundamental rights. It may create conditions for torture, enforced disappearance and other violations of human rights. The ATA is misused by the Government against political opponents and ordinary citizens. There are reported incidents where excessive amounts of	

Recommendation A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations made by the Working Group
		bribes are paid by innocent people when threatened to be prosecuted under this law. It violates all of Pakistan's international law obligations and judicial independence is denied. There is urgent need to interpret laws in a manner that balances Pakistan's national security and foreign policy imperatives against civil liberties and fundamental rights of its citizens. Section 10 of Pakistan Protection Act 2104 allows for exclusion of the public from hearings on the ground of "public safety". Section 15 (5), which reverses the burden of proof which is inconsistent with the presumption of innocence enjoyed by the accused persons; Section 20, which confers blanket immunity from the prosecution for actions done in good faith; Section 6, which infringes upon the right to liberty by allowing preventive administrative detention without adequate safeguards and retrospectively authorises otherwise arbitrary or unauthorised arrests or detentions publicly carried out; Section 3(2), which allows arbitrary inference with the right to privacy; Section 3(2)(C), which establishes special courts and set outs procedures for the operation of special courts that do not meet the condition of trial by a competent, independent and tribunal. Many of the offences scheduled under the Pakistan Protection Act are already	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
		criminalised in Pakistan.	
91. It is important that the constitutional, legal and regulatory framework, in particular in relation to the issue of the deprivation of liberty, be in full conformity with international standards in order to ensure that it does not give licence to secretly detain or disappear anyone, or that it does not lead in practice to circumstances where enforced disappearances could be perpetrated. (a) The constitutional, legislative and regulatory provisions, in particular "preventive detention" regimes and rules allowing for arrest without warrant of suspects, should be carefully scrutinized, in order to ensure their compatibility with international standards and, if necessary, their repeal	21. Article 10 (of the Constitution) provides for a series of safeguards in the case of arrest or detention. Clause 1 of article 10 states that "no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest, nor shall be denied the right to consult and be defended by a legal practitioner of his choice." Clause 2 of article 10 provides for the right of any person arrested and detained in custody "to be produced before a magistrate before a period of twenty four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the nearest magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate." 22. However, paragraph 3 of the same article 10 provides that clauses 1 and 2 do not apply to "any person who is arrested or detained under any law providing for preventive detention." Clauses 4 to 9 of article 10 describe a system of "preventive detention" applicable to "persons acting in a manner prejudicial to the integrity, security of defence of	Government: The provision enumerated in Anti-Terrorism Act 1997 and Actions (in Aid of Civil Powers) Regulation 2011 are in compliance with human rights obligations. A comprehensive mechanism has been provided by way of appeal and review to the aggrieved persons and judicial forums are available for the redressal of the genuine grievances for cases where there is a possibility of arbitrary deprivation of liberty. Article 10 of the Constitution outlines safeguards for persons deprived of their liberty and ensures adequate judicial guarantees for a person's right to fair trial when faced with detention. Article 199 (1)(b)(i) and Article 184(3) of the Constitution empower the High Courts and the Supreme Court to issue writs of habeas corpus to bring a prisoner or other detainee before the court to determine if the person's imprisonment or detention is lawful. Through strict judicial oversight, it has been ensured that rules related to preventive detention are in line with international standards. As stated, promulgation of Protection of Pakistan Act 2014 (PPA) was a temporary measure with a sunset clause. It did not give extra-ordinary powers to the law enforcement agencies rather it aimed at providing speedy justice to families of victims of terrorism. It also provided protection to judges and witnesses.	The Working Group has on many occasions, including in a general allegation letter transmitted to the Government of Pakistan in November 2015, raised its concern that article 10 of the Constitution is not providing sufficient procedural safeguards to all persons deprived of liberty. In addition, the Protection of Pakistan Act 2014 and the Anti-terrorism Act contain provisions that are not in line with international human rights standards. Particularly, the Working Group is concerned that despite strong criticism from civil society organizations and the Working Group, provisions in these legislation related to "preventive

Recommendation A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
	Pakistan or any part thereof, or external affairs of Pakistan, or public order, or the maintenance of supplies or services", under which such persons may be detained for "a period exceeding three months" under the supervision of a review board. It is the opinion of the Working Group that the "preventive detention" regimes should be carefully reviewed in order to ensure their compatibility with international standards, including with the Declaration on the Protection of All Persons from Enforced Disappearance.	Other: No Constitutional Amendment has been made to make Article 10(3) ineffective. Neither has any review of preventive detention measures been conducted thus far. As mentioned in the situation analysis, the Constitution provides for certain safeguards against detention. One of those safeguards (Art 10, clause 2) relates to the duration of detention. However, the Protection of Pakistan Act (POPA) and Article 11EEEE of the Anti-terrorism Act provide wider powers to the agencies to keep people in detention beyond the limit prescribed in the Constitution. Additionally, the Action in Aid of Civil Powers Regulation 2011 (AACPR) allows a judicial oversight board to decide that individuals can be detained for longer periods, in contravention to Constitutional safeguards. POPA further facilitates enforced disappearances by legitimizing past detentions at undisclosed locations and providing immunity to law enforcement agencies acting "in good faith." ICJ and HRCP: Pakistani legislation continues to suffer from the defects discussed by the WG in 2012. In its report, the Working Group noted concerns about the 2011 Actions (in Aid of Civil Power) Regulations (as well as the Anti-Terrorism Act), and had said that their compatibility with international standards should be carefully examined	detention" and "arrest without warrant" for example, have not been amended. The Working Group urges Pakistan to ensure the protection of human rights persons deprived of liberty and make necessary amendments to its domestic legislation.

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations/ steps taken / current situation	Level of Implementation and observations (to be filled by the Working Group)
		(paras 28-29). The Regulations, applicable to FATA and the provincially administered tribal areas (PATA), authorize the Government to establish internment centers in undisclosed locations and gave law enforcement agencies broad powers to preventively detain suspects. The regulation has retrospective effect, thereby extending legitimacy to the security forces' actions in abducting citizens. The Regulations were challenged in the Supreme Court by relatives of affected individuals in September 2012. The progress in the case has not inspired confidence among the affected families and there has been no decision after several hearings. Meanwhile, human rights organizations have expressed concern over both a very high fatality rate among the young detainees at the internment centers and also a complete lack of judicial inquiry. Not only has Pakistan failed to amend these laws, in July 2014 the Parliament enacted the Protection of Pakistan Act to enhance the Government's preventive detention powers. Section 6(1) of the PPA permits the Government to authorize preventive detention for up to ninety days for persons it has "reasonable grounds to believe" is acting in a manner "prejudicial to the integrity, security, defense of Pakistan or any part thereof or external affairs of Pakistan or public order or maintenance of supplies and services". This combines an extremely low standard of proof with an extremely vague definition of the scope of conduct potentially giving rise to detention.	

Recommendations A/HRC/22/44/Add.2	Situation during the visit A/HRC/22/44/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
		The scope of individuals potentially subject to detention is widened even further by a provision that any person "connected or reasonably believed to be connected" with the commission of a Scheduled Offence under the law may be preventively detained. The detention of a person under section 6(1) of the PPA does not require any court order or require the authorities to ensure that everyone detained under section 6(1) is promptly brought before a judicial authority. Even though detentions under section 6(1) remain subject to Article 10 of the Constitution of Pakistan, which provides for some safeguards including judicial supervision of preventive detention, Article 10 itself falls short of the requirements of ICCPR article 9 and other international standards. The right to be represented by counsel and to have prompt access to counsel is not guaranteed to any individuals preventively detained, and Article 10 expressly excludes "Enemy Aliens" from the prescribed safeguards. UNPO: Arbitrary deprivation of liberty remains an issue of concern in Pakistan. The Constitution of Pakistan continues to allow systems of "preventive detention" when prescribed by law. Among them, the Protection of Pakistan Act (PPA) contains the most worrying clauses on preventive detention. Article 3(2)(b) establishes that law	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations/steps taken/current situation	Level of implementation and observations (to be filled by the Working Group)
		enforcement agents "may arrest, without a warrant, any person who has committed […] or against whom a reasonable suspicion or credible information exists that he has committed, or is about to commit any such act or offence". In other words, it legalizes detentions without warrant. Including this article, many provisions in the PPA hamper the transparency of law enforcement operations which is frequently behind cases of enforced disappearances. Moreover, article 6 of the PPA prescribes preventive detention for a period not exceeding 90 days, when the Government believes someone could be "prejudicial to the integrity, security, defense of Pakistan or any part thereof or external affairs of Pakistan or public order […]". Preventive detention, particularly under such conditions, should be understood as violating human rights. They are also often behind cases of enforced disappearances, when individuals are deprived of their liberty while their whereabouts remain undisclosed to family and friends. The PPA risks making preventive detention the general rule, not the exception. The PPA permits that individuals are detained without access to family or lawyer and at undisclosed locations, creating a perfect environment for torture, ill-treatment and enforced disappearance. In Balochistan and Sindh, under the pretext of maintaining national security, preventive detention has been used by the Government to supress and to intimidate critics and	

Recommendations: A/HRC/22/45/Add.2	*Situation during the visit: A/HRC/22/45/Add.2*	*Observations: steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		voices of dissent. Voice for Baloch Missing Persons: In Balochistan, the Constitution is not being complied with by State forces. There are thousands of cases where people were arrested and disappeared. But there has never been any prosecution before any court or judicial body. There is a big discrepancy between the figures provided by non-governmental organizations and the Government. The Government seems to be intended to conceal the crimes perpetrated by State forces and it is harassing people not to pursue cases or provide information to international organizations regarding human rights violations. The falsification by the Government is demonstrated in its statement in which it confirms that during the period between 2010 and 2015 more than 1000 mutilated bodies were found. Relatives of the victims appeared before the courts and media asking for safe release of their beloved ones and they repeatedly accuse State forces responsible for the abduction of their family members. The Supreme Court of Pakistan stated that State forces were involved in enforced disappearances. The Inspector General of Police investigated thoroughly into the First Information Reports filed by families of disappeared persons and concluded that State forces involved in cases of enforced	

Recommendation(s) A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
		disappearances in Balochistan. The ground realities also testify the involvement of State forces in killing and dumping of Baloch political workers. In Balochistan, operations of State forces are common and during which dead bodies of disappeared persons' are being thrown. It is also been observed that political workers and students are arrested by State forces in broad day-light in the presence of the public. In several cases, people were unloaded from vehicles in front of police stations. Arrests of political workers were conducted by State forces in uniform. Intelligence agencies and State forces are involved in enforced disappearances in Balochistan and they enjoy complete impunity. No one has been prosecuted or convicted yet which demonstrates the lack of capacity to hold accountable perpetrators of enforced disappearance in Pakistan. Other: In 2013, the Supreme Court demanded justice for victims of enforced disappearances. According to the 2015 HRW Report on Pakistan, the Government has failed to comply with international law and the constitution in preventing enforced disappearances. The security forces continue to enjoy impunity in cases of missing persons. In March 2015 for instance, the Frontier Corps abducted Zahid Baloch, who remains missing. Pursuant to article 10, the parliament has passed extraordinarily repressive laws such as the recently enacted Protection of	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations, steps taken, current situation	Level of implementation and observations made by the Working Group
		Pakistan Act, 2014, which allows for individuals to be detained at undisclosed locations, without access to family or lawyers, putting them at risk of enforced disappearance, torture and ill-treatment. Under article 3 (b) and (c) of this act, the armed forces may arrest and/or search without warrant against a person against whom there exists credible information of planning to commit a scheduled offense. In February 2015, Saad Iqbal Madni, was illegally detained at Police Station Defence B, Lahore, without charge or trial. Mr. Madni has never been charged with any offence, does not have any prior criminal record and is an upstanding citizen of Pakistan. He was being detained on the basis of a notification for preventive detention issued by the District Coordination Officer. However, both Mr. Madni and his legal counsel were repeatedly denied a copy of the notification. Mr. Madni is a former Guantanamo Bay detainee, who was repatriated to Pakistan in 2008, without charge or trial. By 2013, Mr. Madni's name was still notified in Schedule IV of the ATA, for five consecutive years by that time, despite several requests to have his name removed. Consequently, a writ petition was filed on behalf of Mr. Madni before the Lahore High Court, Lahore, on the established legal principle that no person can be listed under Schedule IV for an unspecified and excessive period, particularly where there is no incriminating material to establish that the individual was acting in a manner prejudicial to the	

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations: steps taken / current situation*	*Level of Implementation and observations (to be filled by the Working Group)*
		security or defense of Pakistan or public order. The superior courts have held that any such inclusion of an individual's name under Schedule IV would amount to curtailing the liberty of a citizen unlawfully and is in violation of his fundamental rights. Other: Since the visit of the Working Group many constitutional and legislative changes have taken place. By a constitutional amendment named the Constitution (Twenty-first Amendment) Act, 2015 the application of article 10 has been narrowed down to be negligible. The stated amendment exclude all persons accused of terrorism from the judicial review of civilian courts and authorize the military courts to try them in secret. Other: Under Section 61 of the "Code of Criminal Procedure 1898 as amended by Act 2 of 1997" a person arrested cannot be detained more than twenty four hours. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.	

Recommendation *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations: steps taken / current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		Under Section 167 of the "Code of Criminal Procedure 1898 as amended by Act 2 of 1997" procedure when investigation cannot be completed in twenty-four hours. (1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 61, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police-station or the police-officer making the investigation if he is not below the rank of sub-inspector shall forthwith transmit to the [nearest Magistrate] a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate.	
92. (a) In accordance with article 3 of the Declaration on the Protection of All Persons from Enforced Disappearance, Pakistan must take effective measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction.	33. A number of cases of enforced disappearance filed with the Working Group allegedly occurred between the mid-1980s and the mid-1990s, in the north-western region, in relation to the conflicts in Afghanistan. Allegedly, Afghan armed groups have abducted persons and held them in illegal detention centres on Pakistani soil, with the acquiescence of the authorities. The majority of those persons were believed to be detained in the centre located in Shamshatoo, which was reportedly controlled by Hezbe	Government: In order to take effective measures to deal with the issue of enforced disappearances, in April 2010, the Federal Government set up a "Commission of Inquiry on Enforced Disappearances" under the Pakistan Commission of Inquiry Act 1956. The CoIoED has actively investigated cases of enforced disappearances. As a result of this initiative, a number of cases have been disposed off. The Commission has been vested with broad powers, including the power to register an FIR against whom evidence of involvement in the disappearance of a person is found. The Commission receives cases from Human Rights Cell of the Supreme Court of	The Working Group is alarmed by the reportedly continuing widespread practice of enforced disappearances in Pakistan, and by the fact that the number of cases of enforced disappearance has increased, especially in Sindh. The Working Group appreciates the establishment of the "Commission of Inquiry on Enforced

[illegible]	[illegible]	[illegible]	[illegible]
	Islami (Hikmatyar).) 14. A number of other cases were also reported to the Working Group to have taken place in the 1990s and the beginning of the 2000s in relation to the military operations carried out in Karachi and their aftermath (Sindh Province). Most of the cases concerned the alleged disappearance of members of the political party Muhajir Qaumi Movement (MQM), who were allegedly arrested by the police or by other security forces.[2] 15. In 2005, the Working Group began to receive cases of persons who had allegedly disappeared in different contexts. A number of persons had allegedly disappeared in the context of the so-called "war on terror", in relation to their supposed activities in connection with Islamist armed groups. Some of those persons were transferred to other State's territories or detention centres. These cases mostly concerned the provinces of Punjab and Khyber Pakhtunkhwa between 2005 and 2006. A number of other cases concerned persons who had been abducted in relation to their supposed activities in nationalist	Pakistan, civil society organizations, National Crisis Management Cell of the Ministry of Interior and directly from the families of the disappeared persons. On the direction of the Supreme Court of Pakistan or on its own, the Commission can file a First Incident Report in the concerned Police Station in cases of missing persons. The Home Secretary of the respective Province is directed to constitute Joint Investigation Teams (JIT) having representatives from the Law Enforcement agencies as well as Intelligence agencies. The hearings in each case are held by the Commission at Islamabad, Lahore, Karachi and Quetta with the view to facilitate the families of alleged disappeared persons. This procedure is being practiced scrupulously and the update on traced persons is regularly conveyed to the WGEID. It has been brought to the notice of the WGEID on many occasions that many of the cases brought before it relate to a political party which exercises a degree of influence in Karachi (Sindh) and are politically motivated. Most of the complaints of alleged disappearances have been sent to WGEID by it without exhausting domestic remedies. It may also be noted that the allegations of increase in number of cases of enforced disappearances in Balochistan is not based on facts. The CoIoED has received only a few cases of alleged enforced disappearances in the recent past from the province of Balochistan.	Disappearances. However the Working Group is concerned about the efficiency of the work of the Commission of Inquiry. In addition, in order to prevent and terminate acts of enforced disappearance, the Working Group recommends that Pakistan should take legislative measures to criminalize enforced disappearance and any other act which would lead to enforced disappearance as well as to fight against the culture of impunity. The WGEID emphasizes that, in light of its humanitarian mandate, domestic remedies may not have been exhausted to present cases to the WGEID.

Recommendation A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Other sources: Steps taken / General situation	Level of implementation (as assessed by the Working Group)
	movements or dissenting groups. Those cases mostly occurred, allegedly, in the Sindh province or in Balochistan. 36. During the past reporting period, the Working Group sent two communications under its urgent action procedure to the Government for cases that allegedly occurred in November 2011 and June 2012. It also sent, under its standard procedures, six newly reported cases that allegedly occurred between 2007 and 2011. 37. Since its establishment, the Working Group has transmitted 151 cases to the Government; of those, nine cases have been clarified on the basis of information provided by the source, 42 cases have been clarified on the basis of information provided by the Government, one has been deleted, and 99 remain outstanding. 38. There is an acknowledgement that enforced disappearances have occurred and still occur in the country. Enforced disappearances reportedly happened in the past, even though not all cases were carefully registered. In	Other: The government of Pakistan has not taken any substantial steps to prevent enforced disappearances or disclose the fate or whereabouts of the disappeared persons; in fact, the crime is widely committed by state agents. AI has been receiving regular reports about ongoing cases of enforced disappearances, particularly in Karachi, following the Rangers' operation. One of the many cases that have been brought to the attention of AI is that of Rizwan Akram Niazi, the Faisalabad Coordinator of Defence for Human Rights Pakistan. According to reports received by his colleagues and lawyer, he was arrested by members of the Elite Force on 11 November 2015 at his home in Faisalabad and has been missing since. A few of the steps generally taken, but without any real results are as follows: The Supreme Court passed a judgment (2014 PLD 305 SC) ordering the Government to enquire about missing persons and provide detail about these cases. In 2011 it also directed the government to create an Inquiry Commission which was required to complete its findings within one year; more than five years have passed since, and the proceedings are yet to be finalized. In 2013 a 19-member Federal Task Force on missing persons was constituted. This	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
	particular, the Working Group was informed in Karachi that 28 cases of MQM activists abducted in the 1990s remained unclarified. According to the various official and unofficial sources met during the visit, however, it was in the post 11 September 2001 period that the question of "missing persons" began to raise real attention at the national level, as it reportedly became a widespread phenomenon. When the Working Group undertook its visit, cases continued to be reported to the national authorities, and the situation was said to be of particular concern in Balochistan, where a great number of disappearances had allegedly recently occurred. Despite this broad acknowledgement, there were controversies on both the figures and the nature of the practice of enforced disappearance in Pakistan. 39. The figures communicated to the Working Group ranged from fewer than 100 to thousands of cases of enforced disappearance. In Balochistan alone, some sources alleged that	task force submitted its 25 page long report in December 2013. The contents of the report have not been made public. In 2014, the Interior Ministry stated that the national policy on missing persons will be announced soon and the report of the task force will be presented in the Parliament. ICJ and HRCP: The practice of enforced disappearances continues in Pakistan. The exact number of cases reported since the WGEID's country visit are disputed. From September 2013 to December 2015, HRCP has documented 370 cases of enforced disappearances from 48 districts in six conflict areas in the country, which include FATA, Khyber Pakhtunkhwa, Gilgit Baltistan, South Punjab, interior Sindh and Balochistan. The Muttahida Qaumi Movement also alleged an increase in enforced disappearance and extrajudicial killings of its workers, which it attributed to a series of targeted operations in Karachi by the Rangers, a paramilitary force. HRCP also added 24 new cases of enforced disappearance to a pending petition before the Supreme Court of Pakistan. Several disappeared persons who were later traced recorded statements in the Supreme Court stating the security forces abducted them. A	

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http://www.dawn.com/news/1061816

http://www.baaghi.tv/national-policy-on-missing-persons-to-be-announced-soon/

Recommendation (A/HRC/22/45/Add.2)	Situation during the visit (A/HRC/22/45/Add.2)	[illegible]	Level of implementation and observations (as noted by the Working Group)
	more than 14,000 people are still missing, while the provincial Government recognizes less than 100. To date, the Commission of Inquiry on Enforced Disappearances still has more than 500 cases on its docket concerning the whole country. The number of officially registered allegations, although perhaps not reflective of the reality of the situation, is itself an indication of the existence of the phenomenon. 40. With regard to the nature of the practice, the authorities at the federal and provincial levels with whom the Working Group met often declared that most of the "missing persons" were in fact not victims of enforced disappearance. According to those authorities, some of those persons had been under criminal charges and had chosen to go in hiding, while others had fled to another country to join illegal armed groups. Others, according to the same authorities, had been the victims of abduction by non-State actors for various reasons. Cases of enforced disappearances by State actors, in this context, were very few and were the result of misconduct and ultra vires behaviour by some agents of the State.	few were recovered from the custody of the security forces after they had initially denied having any knowledge about their whereabouts. In some cases, people reported as "disappeared" in the past, and in respect of whom security agencies had previously denied any knowledge of their whereabouts in the past, have suddenly been revealed to be in the custody of authorities when their conviction by a military court is announced. In other cases, even after security agencies acknowledge the detention of persons forcibly disappeared in the past, they continue to keep them in detention without giving them a fair trial. The seven remaining men in the Adiala 11 case, for example, still remain in arbitrary detention after their arrest over five years ago. The Supreme Court too has refused to intervene for lack of jurisdiction, among other reasons. Committee for Missing Persons: The case concerning 25 MQM workers remains pending. No fruitful conclusion has been reached. Most of these 25 persons are from Karachi. The Commission on Inquiry on Enforced Disappearances (CoIoED) may decide to transfer these cases to the Task Force for Compensation which may be injustice for these families. Enforced disappearances continue in Karachi, Pakistan.	

Recommendation A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
	41. Non-governmental sources alleged, however, that there was a pattern of enforced disappearances in Pakistan that was imputable to law enforcement agencies in conjunction with intelligence agencies. 42. During the visit, families recounted the Working Group their stories, and each story, while being different, revealed the same pattern. The abduction, often taking place in front of witnesses, is reported to have been perpetrated by law enforcement agencies, such as the police, the Frontier Corps (FC) or the Rangers, jointly with members of intelligence agencies in civilian clothing. Most of the time, intelligence agencies, such as Inter-Services Intelligence (ISI) or Military Intelligence (MI) are alleged to be directing the operations. 43. When asked whether they had filed a complaint for illegal arrest, families generally replied that they had tried to file a first information report (FIR) with the police, but were turned down or discouraged from doing so. Most of them ultimately filed their cases with the provincial High Court or the Supreme Court of Pakistan, so that the Court would issue an	Since 2013 till date, there have been operations against Muhajir Community and their representative party Muhajir Quami Movement (presently Muttahida Quami Movement) by the paramilitary forces, Sindh Rangers and other law enforcement agencies in Karachi. Most cases were reported to the High Court of Sindh, CoIoED and the WGEID. It is also noted that most of these cases FIR(s) in certain Police Stations were lodged following orders of High Court of Sindh and CoIoED. UNPO Since the visit of the WGEID, the Pakistani Government has not done enough to prevent, investigate and end the occurrence of enforced disappearances. However, never has the topic been so high on the agenda of politicians, activists, media and the Government itself. Unfortunately, the lack of political will remains the main drawback, despite some progress from the judicial power and part of the Senate. It is important to take into account that local human rights organizations have remained motivated to report and denounce cases of enforced disappearances. The development of the main governmental bodies dealing with enforced disappearance in Pakistan are analysed below: The Commission of Inquiry on Enforced Disappearance (CIED) has increased its workload, but remains understaffed and so far unable to effectively tackle the amount	

Recommendation (A/HRC/22/45/Add.2)	Situation during the visit (A/HRC/22/45/Add.2)	Observations, information, current situation	Level of implementation and observations (to be filled by the Working Group)
	order to the police to initiate an investigation. In a large number of cases, families reportedly received threats or were intimidated to deter them from filing such cases.	of cases of enforced disappearances. Information from early 2015 shows that the CIED had located over 980 persons since 2011, with 1273 cases pending. However, human rights organizations believe the number is five times higher.	
	44. Some families were promised that, if they did not file a case, their loved ones would be released, which did not happen. Other families were threatened that, if they did file a case, their loved ones would be harmed, or another member of their family would also be abducted. According to the families the Working Group heard, witnesses who were called to testify in court were threatened and, in some cases, victimized. In a few cases, the lawyers defending the families were reportedly themselves victims of enforced disappearance.	Many of those missing persons successfully tracked by the CIED were found in internment centres. Most of them had not received any charges, despite spending years in detention. Therefore, enforced disappearances are linked to unlawful and preventive detentions. The lack of transparency of law enforcement operations is also an underlying factor in the continuation of enforced disappearances in Pakistan. In many cases, the CIED had enough information to hold law enforcement agencies responsible for cases of enforced disappearances, but no further investigation on the roles of such agencies was put into place.	
		The judiciary has been responsible for some improvement in the investigation of enforced disappearances. However, and also due to its limited mandate, the impact of its decisions has been received with criticism by most human rights organizations. Following unwillingness on part of the police to receive complaints on cases of missing persons, the five Pakistani High Courts have been active in receiving such complaints and starting investigations.	

Recommendations	Situation during the visit	Observations: steps taken / current situation	Level of implementation and observations to be filled by the Working Group
A/HRC/22/45/Add.2	A/HRC/22/45/Add.2		
		While the High Courts have been able to trace some of the missing persons, their role does not equate to that of a specialized body. Furthermore, High Courts, due to their location and procedures, are not the most accessible platform to receive complaints. The amount of cases received by High Courts is only a fraction of the episodes of enforced disappearances in Pakistan. While it is important to be aware of the limitations and deficiencies of the High Courts in tackling cases of enforced disappearances, certain developments should also be commended. For instance, in January 2016, the Sindh High Court condemned police officers for not reporting and making enough efforts to investigate and punish the involvement of rangers on cases of enforced disappearances. Earlier, in July 2015, the Islamabad High Court summoned the Defence Secretary of Pakistan in a case involving the disappearance of a prominent lawyer. He was believed to be taken by members of an intelligence agency. The Court criticized the agency's inability to trace the lawyer, and demanded that further investigation be carried out by the Defence Secretary. Similar decisions have not been complied with by law enforcement and intelligence agencies. In July 2013, the Supreme Court demanded the Pakistani Government to establish and inform on measures aimed at ending enforced disappearances in the country. It	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations, steps taken, current situation	Level of implementation and observations (to be filled by the Working Group)
		affirmed that "it is the duty of the state to look into [...] and formulate policies ensuring that persons are recovered as early as possible to help reduce the miseries and plight of family members of the victims, including womenfolk, children and their parents". However, until now, the Government has failed to comply with the Supreme Court's decision. Moreover, the Voice for Baloch Missing Persons has recently criticized the Supreme Court for discharging almost 200 cases of missing persons, allegedly following political instructions. No concrete initiative has been taken by the Pakistani Government, despite calls from the judiciary, the Senate, the media and human rights organizations. The Government has systematically used anti-terrorist rhetoric to justify the violation of human rights, particularly in Balochistan. It has also argued that some of the missing persons were actually criminals on the run. The Government has overall neglected calls from the judiciary, attaching little importance to the continuation of enforced disappearances throughout the country. Other: In a report published by the Commission of Enquiry on Enforced Disappearance, there have been 1273 cases of enforced disappearance in the past 4 years. Of these	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations, steps taken / current situation	Level of implementation and observations (to be filled by the Working Group)
		1273 cases, 632 are from Khyber Pukhtun Khawah, 198 from Punjab, 186 from Sindh, 122 from Balochistan, 43 from FATA, 11 from Azad Jammu Kashmir and 30 from Islamabad Capital Territory. Defense of Human Rights (DHR) – an NGO that traces missing persons – has reported 5149 missing persons up (from 2011-2014) contrary to the report published by the Commission. (Enforced Disappearances: Up to 982 missing persons traced in the past four years by Hasnaat Malik, Express Tribune, Feb 2015.) According to this report, 982 people have also been located by the Commission. Moreover, Pakistan's former Attorney General Munir A Malik prioritized the issue of missing persons and formed a missing persons cell in the Advocate General of Pakistan. However these cells were closed under Salman Aslam Butt. The top court asked the federal and provincial Governments to do coordinated efforts for recovery of missing persons. Salman Aslam Butt said he would talk with the relevant authorities for coordinated efforts. (Enforced Disappearances: Up to 982 missing persons traced in the past four years by Hasnaat Malik, Express Tribune, Feb 2015.) According to the Asian Human Rights Commission, relatives of victims of enforced disappearances have been physically injured, threatened or killed. The conditions outlined in point 44 thus remain prevalent. (Human Rights defenders in Pakistan in need of defense, Asian Human	

Recommendations (A/HRC/22/45/Add.2)	Situation during the visit (A/HRC/22/45/Add.2)	Observations made by relevant stakeholders	Level of implementation and observations made by the Working Group
		Rights Commission, May 2014.) Other: There has absolutely been no measure taken to prevent acts of enforced disappearances in accordance with the Declaration. Instead many measures have been taken to enhance impunity for the perpetrators of enforced disappearance. There is another operation going on in Karachi since 2014 conducted by so called civilian paramilitary force named Rangers but actually controlled by Military. […] is receiving complaints of disappearances since the start of the latest operation. […] agrees with the Working Group about the confusion surrounding exact number of missing persons. […] however has recorded till the time of filling of this questionnaire 2262 cases of disappearances from all over Pakistan. […] can confidently claim that the actual number is much higher as many victim families approach […] for consultation but in the end decide not to submit a complaint. The observations of the Working Group regarding threats or false reassurances to families of victims remain relevant. There have been threats to Human Rights defenders working with […] in the past which culminated in the disappearance of one member. His name is Rizwan Akram Niazi for which an urgent appeal has been sent to the Working Group. Other:	

Recommendations A/HRC/22/45/Add.2	Situation during the visit (A/HRC/22/45/Add.2)	Information - steps taken - current situation	Level of implementation and observations (to be filled by the Working Group)
		No specific record is found. However, there are many cases of enforced disappearance at present. Thousands of Baloch claimed to have been disappeared. Even in Karachi there are many cases of missing persons. Workers of MQM have been taken away from their homes and their whereabouts are not known. In 1990, Operation clean up was designed to eradicate from Pakistan the extremist elements. Benazir Bhutto, the then Prime Minister, in 1993 was removed from office by the President due to the number of deaths caused by way of judicial killings of Mohajirs. Zohra Yousuf, Chairperson of HRCP stated that previously the majority of missing persons used to return home but now only mutilated bodies of victims of enforced disappearance turn up on roadsides and desolate places. A large number of bodies are of university students. The epidemic of enforced disappearances is used as a brutal instrument of immense suppression against groups of people, ethnicity and against political dissidents, especially the Baloch and MQM. As the International Community has been taking a back-seat approach and has compromised its international obligations, these human rights violations will continue to affect lives of thousands of families belonging to marginalized groups such as Baloch and Mohajirs. In the 1990s, over 15000 cases of judicial killings and disappearances took place. Since 2013, over 8000 arbitrary detentions	

Recommendation (A/HRC/19/58/Add.2)	Situation during the visit (A/HRC/19/58/Add.2)	Information received – Current situation	Level of implementation and observations by the Working Group
		have taken place, with 250 persons still missing, 54 extra judicially killed, all of whom belong to the MQM.	
92. (b) As a preventive measure against enforced disappearance, any person deprived of liberty shall be held in an officially recognized place of detention and be brought promptly before a judicial authority, in accordance with article 10, paragraph 1, of the Declaration.	45. […] A number of those who returned testified to having been held in unofficial places of detention. A number of such places in different cities (some mentioned to the Working Group) seem to be known as unofficial or secret places of detention. Many of those who returned from these places were allegedly threatened not to speak about their period of disappearance. Some, however, have chosen to take high risks to give their statements in court or before the Commission of Inquiry.	Government: The Constitution and laws relating to detention provide for necessary safeguards. All detainees are kept at officially recognized places of detention. Due to security reasons, details of where exactly terrorists have been detained may not be made publically available at all times. But this does not imply that terrorists would not be kept in "officially recognized places of detention". Such security measure was deemed necessary after a couple of incidents of "prison break" occurred in the country. For instance, 400 prisoners were assisted in their escape from Banu prison in 2012. Many of these inmates were convicted dangerous terrorists. Similarly, other safeguards such as "to be brought promptly before a judicial authority" and "grounds for detention" are also provided for in the Constitution. These safeguards are further supplemented by the right of any individual to file a writ petition for breach of his fundamental rights under Articles 184 and 199 of the Constitution of Pakistan. Other: […] continues to receive reports about persons detained in unofficial detention centres with no contact with their families and lawyers throughout Pakistan. We have recently released an Urgent Action relating	The Working Group has received information about persons detained in unofficial detention centers with no contact with their families and lawyers. The Working Group is also concerned that article 9(3) of the Protection of Pakistan Act permits to confine individuals deprived of liberty "at any place in Pakistan." The Working Group reiterates that any person deprived of liberty shall be held in an officially recognized place of detention and be brought promptly before a judicial authority, in accordance with article 10, paragraph 1, of the Declaration.

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations, steps taken, current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		to the case of Saeed Baloch, General Secretary of the Pakistan Fisherfolk Forum. According to his family, colleagues, and lawyer, he was detained by the Rangers on 16 January 2016 in Karachi, and it wasn't until 26 January that he was presented in an Anti-Terrorism Court after intense pressure from civil society groups. The Rangers claimed he had only been arrested a day before – on 25 January – from a local police station in the city. This does not account for the days from 16 January when they had held him at an undisclosed location. Even though the Rangers have now made it known that they have him, at the time of writing his current place of detention is still not known. ICJ and HRCP: Not only did the Government fail to review and amend this and other elements of Pakistan's existing legislative framework to bring it in conformity with its national and international human rights obligations, it actually enacted new legislation that will facilitate the perpetration of enforced disappearance, including by explicitly legalizing forms of secret, unacknowledged, and incommunicado detention. Section 9 of the Protection of Pakistan Act, 2014, (PPA) authorizes secret and unacknowledged detention, as well as in some cases, the nondisclosure of grounds for detention. Section 9 of the PPA authorizes law	

Recommendations *A/HRC/22/45/Add.2*	*Situation during the visit* *A/HRC/22/45/Add.2*	*Observations, steps taken, current situation*	*Level of implementation and observations (to be filled by the Working Group)*
		enforcement agencies, security forces and investigating officers to withhold information, indefinitely and possibly permanently, except from the high courts or the Supreme Court, regarding the location of individuals deprived of their liberty, the place of their detention, and rather ambiguously any "information with respect to any detainee or accused or internee or his whereabouts". The withholding of information is permitted by the PPA not only in the interest of the security of the personnel but also for any "reasonable cause". Section 9 also allows the Government to keep secret "the grounds for detention" and "any information relating to a detainee, accused or internee" characterized as an "Enemy Alien" or a "Militant", as defined in the Act. Section 9(3) allows those convicted under the law to be "confined at any place in Pakistan". UNPO: Reports continue to emerge on the widespread use of unofficial places of detention by law enforcement agents. Alarmingly, the Protection of Pakistan Act (PPA) can be interpreted as providing legal basis for the use of "secret" places of detention. Article 9(3) of the PPA establishes that convicted individuals "may be confined at any place in Pakistan including the prisons established by the Provincial and Federal Governments". This provision exacerbates the lack of	

Recommendation	Observation during the visit	Information/steps taken / current situation	Level of implementation and information as stated by the Working Group
A/HRC/22/45/Add.2	A/HRC/22/45/Add.2		
		transparency of law enforcement agents. Similarly, article 9(2) (a) stipulates that the Government and armed forces can "in the interest of the security of its personnel […] or for any other reasonable cause withhold the information regarding the location of the detainee […] or his whereabouts". Therefore, PPA gives a large way to the government and its security agencies not to disclose information on the whereabouts of detainees – leaving families and friends unaware of the fate of their loved ones.	
		Other: The observations of the Working Group are still relevant as all the constitutional safeguards are bypassed in general and especially when the person in question is accused of having dissenting views.	
		Other: The situation is predominantly the same. One change is that if the victim has been tortured to a certain degree and chances of survival are slim, then that individual is likely to be handed over to a local hospital where he is left to die. Although post mortem reports often confirm that the cause of death is due to inflicted injuries and unnatural causes. State agencies have devised pocket organisations, many of them are being headed by tribal elements and in some cases non-tribal elements are also working on commands of same operator. These groups are armed by the agencies who	

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	[illegible]	Level of implementation based on information received by the Working Group
		abduct political workers and keep them in their private detention centres. These pocket organizations openly can been with forces and commonly these resort to army cantonments. In Khuzdar, the Tutak Mass-grave incident is chief example of this logic, where discussed squad spitefully killed and dumped people in mass-graves but state authorities never took any measure against them. Many other groups are also functioning under the patronization of agencies that arrest people and keep them in unofficial detention centres, sporadically they kill and dump to abducted and also release some of them on various conditions. For doing so, elements are being promoted on high positions in Balochistan even to parliament bodies too.	
92. (e) Particular attention should be dedicated to the ongoing situation in Balochistan […], those who are in custody of State authorities should always be either charged with a crime and be brought before a court of law or released.	46. It was reported to the Working Group that in Balochistan, since 2010, a number of persons whose whereabouts were previously unknown were found dead, generally with signs of torture and sometimes decomposed to the point that their relatives were unable to identify them. In some cases the bodies were found far from where they had been abducted, for some in deserted areas. The practice of "delivering" dead bodies (also called "kill and dump operations" by some civil society organizations) allegedly accelerated in 2011 and 2012. 53. […] The two-member	Government: The Government pursues action against perpetrators who have been involved in enforced disappearances. Since the establishment of the CoIoED, hundreds of missing persons have been traced including from Balochistan. However, it has also been noticed that at times there is lack of sufficient incriminating material or concrete evidence to fix responsibility. Besides, it has been observed that sometimes inflated figures of enforce disappearances are quoted. Several factors come into play in this context, including terrorism and military; tribal Feuds; sectarianism; rivalry between groups; and involvement of foreign actors to destabilize Balochistan. In addition, the Government of Pakistan	The Working Group raises grave concern about the large number of cases of enforced disappearances in Balochistan and the lack of investigation and persecution in relation to the crime. According to the reports that the Working Group has received, there is a climate of impunity in Pakistan with regard to enforced disappearances, and the authorities are not sufficiently

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Measures taken, steps taken, current situation	Level of implementation and observations made by the Working Group
	Commission of Inquiry on Enforced Disappearances is tasked with following up the work of the committee from the Ministry of the Interior and to deal with cases already received by the Supreme Court, as well as with receiving new cases. The Commission may hear families and witnesses, in general in the presence of representatives of most law enforcement and intelligence agencies. The Commission has held hearings in different parts of the country, including in Balochistan. 56. Commitments have been made by several official authorities to "solve" the problem of "missing persons" in Pakistan. In particular, with regard to Balochistan, the new Government adopted the Balochistan package in November 2009, a series of initiatives aiming at addressing the problems of the Baloch people. With regard to "constitutional-related matters", section 12 of the "package" provides for a number of	remains committed to ensuring provision of all fundamental human rights to its citizens. The Working Group may note that the CoIoED, since its establishment, has not received information of increase in the number of reported cases of enforced disappearances. The claims mentioned in the communication are not substantiated by concrete numerical evidence, and instead appear to be general observations based on allegations by certain elements having their own vested interests. Other: According to the Vice-Chairman of the Voice of Baloch, Mr Abdul Qadeer Baloch, also known as Mama Qadeer, the situation in Balochistan has gotten worse. He is recorded to have said: "We would like to inform UN Working Group on Enforced or Involuntary Disappearances (WGEID) Pakistan has not implemented the above recommendations. In fact the state security agencies and secret services have intensified their atrocities in Balochistan since the UN working group visited Balochistan." He further added that "since WGEID visit 250 Baloch have disappeared and the 70 previously enforced-disappeared Baloch have been killed under-custody. Their bodies have been dumped in different	dedicated to investigate cases of enforced disappearance and hold the perpetrators accountable. The Working Group observes that, despite various promises made by Government officials, cases of enforced disappearance have not been resolved in Balochistan. It also belives that stronger commitment from the Government is needed in order to resolve this sensitive human rights issue.

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http://www.bygwaah.com/xnews/news/articles/203/Pakistan-has-failed-to-implement-Recommendations-of-UN-working-group---Qadeer-Baloch.html#.Vrk6DPnl-TU

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations/steps taken/current situation	Level of implementation and observations to be filled by the Working Group
	commitments relating to the issue of "missing persons": Missing persons: the names of missing persons be identified and following actions be taken immediately, after verification, in any case, if they are found to be in custody: (i) Those persons against whom there are no charges be released; (ii) Those persons against whom there are charges be brought before a court of competent jurisdiction within seven days for trial (effective from the date of promulgation of commission); (iii) Such persons be allowed legal consul of their choice, the government should assist them in this regard in accordance with law; (iv) Family members of such persons be informed accordingly and allowed visiting rights. 58. Before the Working Group arrived in Pakistan, and during its visit, the Supreme Court held a number of hearings in Quetta on the case of Constitution Petition No. 77 of 2010 (President Balochistan High Court Bar Association vs. Federation of Pakistan, etc.) on the situation of Law and Order	areas of Balochistan and Karachi."[4] ICJ and HRCP: Cases of enforced disappearances and dumping of bodies continue in Balochistan. The ICJ and HRCP as concerned they may see a further rise as the Government and security forces have indicated that will take all steps requires to ensure law and order for the proposed China-Pakistan Economic Corridor and the Gwadar port, new development projects parts of which run through Balochistan. UNPO: While enforced disappearances remain a widespread phenomenon in Pakistan, Balochistan remains the most affected region. Since 2012, with the escalation of the Government's crackdown on "terrorists" and "militants", the number of missing persons has increased considerably. Pakistani officials have confirmed that 1,800 targeted operations were conducted in Balochistan between December 2014 and September 2015 alone. Besides the casualties and other violations of fundamental rights by security forces, it is possible to link these operations with the rise of enforced disappearances. In 2014, regional officials reported only 71	

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[4] http://www.bygwaah.com/xnews/news/print/203/Printer-Friendly-Page.html

Recommendations A/HRC/22/45/Add.2	Situation during the visit A/HRC/22/45/Add.2	Observations: steps taken/ current situation	Level of implementation and observations (to be filled by the Working Group)
	in Balochistan. As a result of the hearings, the Court adopted an order on 12 October 2012. The Supreme Court expressed its disappointment that its previous orders, as well as its multiple requests directed at law enforcement or intelligence agencies, had not been implemented. In paragraph 14 of its motives, the Court complains about the denial of abductions by law enforcing agencies, including the Frontier Corp: It may be observed that we have repeatedly demanded from all the law enforcing agencies including FC etc. for the production of missing persons and in this behalf categorical directions were made time and again but the orders of producing them were not carried out by simply denying that missing persons are not in their custody. Contrary to it, there is overwhelming evidence as it has been noted hereinabove, on the basis whereof prima facie involvement of FC cannot be over ruled.	missing people in Balochistan – while human rights organizations believe the number to be above 5000. This demonstrates that, particularly in Balochistan, the authorities are not sufficiently dedicated to investigate, prevent and punish cases of enforced disappearance. In 2015, 463 persons are reported to have been forcefully disappeared in Balochistan. The Interior Ministry of Balochistan stated that at least 8363 Baloch were arrested in 2015. However, no information on the identity, location and charges of the arrested were given. "Kill and dump" operations remain a sad reality in Balochistan. In 2015 alone, 157 mutilated bodies were found in Balochistan. In 2014, this number is believed to have been above 450. The Government has systematically denied the figures provided by human rights organizations. While it is difficult to ascertain the exact number of these cases, the discrepancy between the data provided by the Government and the number raised by human rights organizations should be interpreted as an indication of the Governments' lack of cooperation and political will to investigate cases of enforced disappearance.	
	69. In its order of 12 October 2012, the Supreme Court expresses its concern about this climate of impunity in the specific context of Balochistan.	In December 2015, the Supreme Court discharged the cases of 197 disappeared persons from Balochistan, allegedly after a request of the Chief Secretary of Balochistan.	